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New Jersey Green Acres Program
Department of Environmental Protection

Rules and Regulations
N.J.A.C. 7:36

SUBCHAPTER 1. GENERAL PROVISIONS

7:36-1.1 Purposes and objectives

(a) This chapter is promulgated for the following purposes:

1. To implement the purposes and objectives of the Green Acres laws in order to help ensure that there is access to and an adequate supply of lands for either public outdoor recreation or conservation of natural resources, or both. Green Acres shall assist local units and nonprofits in their efforts to increase and preserve permanent outdoor recreation areas for public use and enjoyment, and conservation areas for the protection of natural resources such as waterways, wildlife habitat, wetlands, forests, and viewsheds;
2. To establish the procedures by which the Department will provide Green Acres funding in the form of loans or grants, or both, to local units, and matching grants to nonprofits, to acquire lands that have significant recreation and conservation attributes;
3. To establish the procedures by which the Department will provide funding in the form of Green Acres loans or grants, or both, to local units for the development of land to provide outdoor recreation opportunities and to conserve natural resources for the current population and future citizens of the State;
4. To establish the procedures by which the Department will ensure that lands acquired or developed with Green Acres funding, and all other lands held by a local unit for outdoor recreation and conservation purposes at the time the local unit received Green Acres funding, remain in use for recreation and conservation purposes in perpetuity; and
5. To establish the procedures and standards under which a local unit or a nonprofit must obtain prior approval to use, for other than outdoor recreation and conservation purposes, those lands it holds which are subject to Green Acres restrictions.

7:36-1.2 Scope

This chapter constitutes the Department's rules, under the Green Acres laws, governing the award of loans or grants, or both, to local units for the acquisition or development of land, and 50 percent matching grants to nonprofits for the acquisition of land, for outdoor recreation and conservation purposes. These rules establish project eligibility requirements, application requirements, funding award categories and criteria,

grant and loan terms, and program administrative requirements.

7:36-1.3 Construction

These rules shall be construed liberally to effectuate the purposes and objectives of the Green Acres laws.

7:36-1.4 Severability

If any provision of this chapter is declared ineffective or invalid by any court of competent jurisdiction, that provision shall be severed and all remaining provisions shall continue in full force and effect.

7:36-1.5 Program information; address for submissions

Unless otherwise specified, any questions and all submissions required under this chapter should be directed to the Green Acres Program, New Jersey Department of Environmental Protection, PO Box 412, 501 East State Street, Trenton, NJ 08625-0412; 609-984-0500.

SUBCHAPTER 2. DEFINITIONS

7:36-2.1 Definitions

The following terms as used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Average of the appraisal values" means the average of the land values stated in two appraisals obtained in accordance with N.J.A.C. 7:36-6.6.

"Certified market value" means the land value that the Department certifies under N.J.A.C. 7:36-8.1.

"Commissioner" means the Commissioner of the Department of Environmental Protection or his or her designated representative.

"Conservation restriction" means an interest in land less than fee simple absolute, stated in the form of a right, restriction, easement, covenant, or condition, in any deed, will, or other instrument, other than a lease, executed by or on behalf of the owner of the land, appropriate to retaining land or water areas predominantly in their natural, scenic, open, or wooded condition; appropriate for conservation of soil or wildlife; appropriate for outdoor recreation or park use; or appropriate as suitable habitat for fish or wildlife, which empowers the holder or grantee of the interest to, and which may automatically, forbid or limit any or all of the following:

1. Construction or placing of buildings, roads, signs, billboards, or other advertising, or other structures in, on, or above the ground;
2. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash,

waste, or unsightly or offensive materials;

3. Removal or destruction of trees, shrubs, or other vegetation;

4. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other mineral substance;

5. Surface use except for purposes permitting the land or water area to remain predominantly in its natural condition;

6. Activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation, or fish and wildlife habitat preservation; or

7. Other acts or uses detrimental to the retention of land or water areas for recreation and conservation purposes.

"Cost" means, in addition to the term's usual connotations, the expense of all things deemed necessary or useful and convenient in connection with the acquisition or development of lands for recreation and conservation purposes with Green Acres funding, including the cost of legal, engineering, financial, geological, hydrological, inspection, and other professional services, building demolition, title, and, for local units, the cost of relocation services.

"Declaration" means the recordable, written instrument executed by the local unit which declares that all of the local unit's funded and unfunded parklands are subject to the Green Acres restrictions. The declaration contains the Recreation and Open Space Inventory and is a component of the project agreement.

"Department" means the New Jersey Department of Environmental Protection.

"Development" means any improvement or physical alteration designed to expand or enhance the use of parkland for recreation and conservation purposes. Development may include the following types of ancillary improvements: roadways, parking, landscaping, fencing, lighting, utilities, buildings, and other improvements which expand or enhance use of parkland for recreation and conservation purposes. Development, for the purposes of this chapter, must support the use of parkland for recreation and conservation purposes.

"Dispose of" means to convey or transfer, including to sell, exchange, or donate, title to, or permanent possession and control of, any interest in parkland to another person or entity.

"Divert" means, in the case of a local unit, to use funded or unfunded parkland contrary to the Green Acres restrictions to which it is subject, or, in the case of a nonprofit, to use funded parkland contrary to the Green Acres restrictions to which it is subject, including any applicable conservation restriction or historic preservation restriction. For example, to grant an easement or a right-of-way, or to sell or use parkland for other than public recreation and conservation purposes, is to divert it.

"Eligible land cost" means the certified market value or the average of the appraisal values, whichever is determined by Green Acres to be the appropriate land valuation method under N.J.A.C. 7:36-8.1 or 18.1, as applicable.

"Estimated land value" means the estimated value of a project site based on any reasonable method that the Department determines to be reliable, such as discussions with real estate or appraisal professionals.

"Funded parkland" means parkland that a local unit or nonprofit has acquired or that a local unit has developed with Green Acres funding.

"Green Acres" means the Green Acres Program in the Department.

"Green Acres funding" means a loan or grant, or both, to a local unit for the acquisition of land or development of outdoor recreation and conservation facilities, or a matching grant to a nonprofit for the acquisition of land.

"Green Acres Bond Act" or "Green Acres Bond Acts" means, as applicable, one or more of the following: P.L. 1961, c.46; P.L. 1971, c.165; P.L. 1974, c.102; P.L. 1978, c.118; P.L. 1983, c.354; P.L. 1987, c.265; P.L. 1989, c.183; or P.L. 1992, c.88; or P.L. 1995, c.204 or any bond act for the purpose of funding the acquisition or development of land for public recreation and conservation enacted after the effective date of this chapter.

"Green Acres laws" means all Green Acres Bond Acts and the Green Acres statutes.

"Green Acres restrictions" means all limitations regarding the disposal, diversion, or development or redevelopment of any parkland imposed under the project agreement, including the declaration, this chapter, or the Green Acres laws.

"Green Acres statutes" means N.J.S.A. 13:8A-1 et seq., N.J.S.A. 13:8A-19 et seq., and N.J.S.A. 13:8A-35 et seq., as amended or supplemented.

"Held," when used in this chapter with reference to land, means owned, leased, or otherwise controlled.

"Historic preservation restriction" means an interest in land less than fee simple absolute, stated in the form of a right, restriction, easement, covenant, or condition, in any deed, will or other instrument, other than a lease, executed by or on behalf of the owner of the land, appropriate to preserving a structure or site which is historically significant for its architecture, archaeology or associations, that forbids or limits any one or more of the following:

1. Alteration in exterior or interior features of such structure;
2. Changes in appearance or condition of such site;
3. Uses of such structure or site which are not historically appropriate; or
4. Other acts or uses detrimental to the appropriate preservation of such structure or site.

"Improvement" means any physical change to land made with the intention of expanding or enhancing its use for some specific purpose or purposes.

"Land" or "lands" means real property, including improvements, rights-of-way, water, riparian and other rights, easements, privileges, and any other rights or interests in, relating to, or connected with real property.

"Local unit" means a municipality, county, or other local political subdivision of this State, or any agency

thereof whose primary purpose is to acquire, administer, protect, develop, and maintain lands for recreation and conservation purposes.

"Market value" means the most probable price for which land will sell in a competitive market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by any unusual benefit to the purchaser.

"Nonprofit" means a corporation or trust whose purposes include the acquisition and preservation of land or water areas or of a particular land or water area in a natural, scenic or open condition, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and which has received Federal income tax exemption status under section 501(c) of the 1954 Internal Revenue Code, as amended.

"Open Space and Recreation Plan" means the plan developed by a local unit that identifies existing and potential open space preservation and recreation opportunities in a municipality, county, or region and that is reviewed and approved by Green Acres for purposes of qualifying a project under the grant incentive project category described at N.J.A.C. 7:36-5.1(b)5.

"Parkland" means land acquired, developed, and/or used for recreation and conservation purposes.

"Person" means any individual, local unit, nonprofit, corporation, partnership, organization, association, or other entity.

"Preliminary assessment" means a process defined under the Department's Technical Requirements for Site Remediation, N.J.A.C. 7:26E, by which a person evaluates a property for the presence of contaminated areas of concern.

"Project agreement" means the written agreement between the Department and a local unit or nonprofit governing the local unit's or nonprofit's performance of the project and the Department's provision of Green Acres funding.

"Project period" means the period from the earliest of the dates listed at 1 through 3 below until the date that is two years subsequent to the execution of the project agreement or until the last date of any extension under N.J.A.C. 7:36-9.1, 14.1 or 19.1:

1. The date of the letter from the Department notifying the local unit or nonprofit of the amount of the Green Acres funding award;
2. The date of the at-risk authorization provided by Green Acres under N.J.A.C. 7:36-6.3, 12.3 or 16.3;
or
3. The date on which the local unit or nonprofit first incurred allowable project costs under N.J.A.C. 7:36-4.9, 10.6 or 15.9.

"Project site" means all those lands as described in the loan or grant application, in which the local unit or nonprofit intends to acquire a real property interest, regardless of how acquired, to be held for recreation and conservation purposes, or on which the local unit intends to develop outdoor facilities for recreation and conservation purposes.

"Recreation and conservation purposes" means use of lands for parks, natural areas, forests, camping,

fishing, reservoirs, water reserves, wildlife preserves, hunting, boating, winter sports and similar uses for either public outdoor recreation or conservation of natural resources, or both, pursuant to the Green Acres Bond Acts. This term includes the use of historic areas pursuant to P.L. 1974, c.102; P.L. 1978, c.118; P.L. 1983, c.354; P.L. 1987, c.265; P.L. 1989, c.183; P.L. 1992, c.88; and P.L. 1995, c.204; and the use of historic buildings and structures pursuant to P.L. 1992, c.88, and P.L. 1995, c.204; and the use of ecological and biological study areas pursuant to P.L. 1989, c.183; P.L. 1992, c.88; and P.L. 1995, c.204.

"Recreation and Open Space Inventory" or "ROSI" means the listing of all parcels of land held by a local unit for recreation and conservation purposes at the time of receipt of Green Acres funds, including a description sufficient to identify each such parcel.

"State" means the State of New Jersey or the State of New Jersey acting by and through the Commissioner of the Department, as applicable.

"State House Commission" means that Commission of the State government established under N.J.S.A. 52:20-1, whose approval is required under the Green Acres statutes before a local unit or nonprofit can dispose of or divert funded or unfunded parkland.

"Structure" means a construction for occupancy, use or ornamentation which is installed on, above or below the surface of the ground.

"Support" means to be necessary or useful and convenient to expand or enhance the use of parkland for recreation and conservation purposes.

"Tidelands" means lands now or formerly flowed by the mean high tide. These lands are owned by the State unless it has conveyed its ownership through a grant.

"Time of receipt of Green Acres funds" means all times beginning on the date of the letter from the Department under N.J.A.C. 7:36-6.7 or 12.5 notifying the local unit of the amount of the Green Acres funding award and ending on the date of receipt of the first transmittal of Green Acres funds.

"Unfunded parkland" means parkland, other than funded parkland, that is held by the local unit for recreation and conservation purposes at the time of receipt of Green Acres funds.

SUBCHAPTER 3. LOCAL UNIT PROJECTS: ELIGIBILITY OF LOCAL UNIT APPLICANTS

7:36-3.1 Eligible applicants

Any local unit that has the authority to enter into a project agreement with the Department and to fulfill the financial obligations imposed under the project agreement, this chapter and the Green Acres laws is eligible to apply for Green Acres funding.

7:36-3.2 Ineligible applicants

(a) The following are ineligible to apply for Green Acres funding:

1. Any school board, educational institution, detention and/or rehabilitation institution, parking authority, housing authority, or similar public agency without primary recreation and conservation responsibilities;
2. Any local unit that is in default on any prior obligation to the State; and
3. Any local unit that has not demonstrated reasonable progress in completing a previously approved Green Acres project or is not in compliance with the requirements of this chapter, such as by not properly maintaining its funded parkland.

SUBCHAPTER 4. LOCAL UNIT ACQUISITION PROJECTS: PROJECT ELIGIBILITY, CONDITIONS AND LIMITATIONS

7:36-4.1 General provisions

(a) The Department shall establish a maximum funding limit per project or per applicant based on available funds and project priorities established under N.J.A.C. 7:36-7.1. There is no minimum or maximum loan or grant request amount. Any Green Acres funding award is subject to legislative appropriation.

(b) The local unit is responsible for meeting all requirements of all Green Acres laws, other State statutes, Federal statutes, and local ordinances, as applicable.

7:36-4.2 Eligible projects

(a) Lands for recreation and conservation purposes, as defined at N.J.A.C. 7:36-2.1, are eligible for acquisition with Green Acres funding. Acquisition projects may include, for example:

1. Ocean, bay and/or river waterfront, or a lake, pond, beach or stream that provides opportunity for physical and visual public access, swimming, water sports, fishing and/or boating;
2. A natural area such as a wildlife preserve, forest and/or wetland that provides opportunity for conservation, nature observation, camping and/or hiking;
3. An historic site; or
4. Open space suitable for playgrounds, athletic fields, and active and passive recreation.

7:36-4.3 Ineligible projects

(a) The following acquisition projects are not eligible for Green Acres funding:

1. Any site to be purchased in fee to which public access is not provided, unless the Commissioner determines that public accessibility would be detrimental to the land or to any natural resources associated with the land;

2. Any perpetual conservation restriction or historic preservation restriction not consistent with N.J.A.C. 7:36-4.7;
3. Any site that will remain more than 50 percent covered by buildings, except for the acquisition of historic structures as provided in certain of the Green Acres Bond Acts;
4. Any nonhistoric building purchased exclusively for indoor recreation; or
5. Any site that is, or is intended to be, used as a public road right-of- way.

7:36-4.4 Acquisition of structures

- (a) Improved properties and structures which the local unit shall maintain and operate for recreation and conservation purposes to support the use of an outdoor recreation facility may be acquired.
- (b) When a structure acquired with Green Acres funds is demolished to create open space, the cost of demolition may be eligible for funding as part of the acquisition project, under N.J.A.C. 7:36-4.9(a)6.

7:36-4.5 Acquisition of waterfront land

- (a) A local unit shall contact the Bureau of Tidelands Management within the Department to determine the State's interest or claim in the project site before the local unit submits an application for Green Acres funding for an acquisition involving a riparian interest.
- (b) An interest in State-owned tidelands may be acquired from the Tidelands Resource Council, established under N.J.S.A. 13:1B-10, with Green Acres funds or, where the State previously conveyed its ownership of certain tidelands, those tidelands may be acquired from private owners.

7:36-4.6 Acquisition of agricultural lands

- (a) A local unit may apply for Green Acres funding to acquire farmland when there is a willing seller, the property is on the market, the property is the subject of a pending or approved subdivision or site plan application for non-farm purposes, the property is under contract of sale for non-farm purposes, or the property is integral to the project.
- (b) If farmland is located within an Agricultural Development Area established under the 1983 Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., at the time of application for Green Acres funding, the local unit shall demonstrate that the owner of the farmland has not applied to sell the farmland or a development easement to the State or county in accordance with that Act, or that the owner has applied to sell the farmland or a development easement and the application was not approved.

7:36-4.7 Acquisition of conservation restrictions or historic preservation restrictions

- (a) A local unit may acquire a perpetual conservation restriction, provided the restriction:

1. Provides for public access;
2. Is contiguous and beneficial to other public parkland which provides public access; or
3. Provides for the acquisition of those rights necessary to serve as a buffer or protective area to existing permanent open space or to a unique natural area or wildlife habitat.

(b) A local unit may acquire a perpetual historic preservation restriction if the restriction is on a landscape or structure that is listed or eligible for listing on the New Jersey or National Register of Historic Places and if the restriction:

1. Provides for public access; or
2. Is contiguous and beneficial to other public parkland which provides public access.

(c) If a local unit acquires a conservation restriction under (a)2 or 3 above or a historic preservation restriction under (b)2 above, Green Acres funding shall be limited to no more than 50 percent of the eligible land cost of the project site, determined as if the site were not subject to the conservation restriction or historic preservation restriction.

7:36-4.8 Donations toward the cost of acquisition

(a) If an acquisition of a project site is to be funded in part by a donation, the local unit shall submit to Green Acres, prior to the disbursement of loan or grant funds under N.J.A.C. 7:36-9.3, a letter from the donor, following an example provided by Green Acres, which expresses the donor's intent to donate cash or a portion of the eligible land cost of the project site.

(b) The local unit shall notify Green Acres as soon as a potential donor makes its interest in donation known to the local unit.

(c) Green Acres shall not treat as a donation any donation accepted prior to approval of an application for Green Acres funding under N.J.A.C. 7:36-6.7 unless the local unit has obtained an at-risk authorization under N.J.A.C. 7:36-6.3.

(d) Green Acres shall not treat as a donation any donation of land which is not part of the approved project site.

(e) Green Acres shall not treat as a donation the reduction in the cost of acquisition resulting from negotiation between the local unit and the property owner, unless provided with a donation letter under N.J.S.A. 7:36-9.3(c).

7:36-4.9 Allowable project costs

(a) For acquisition projects, the following costs are allowable, provided the costs are incurred in conformance with all applicable law, including the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.:

1. Costs which the local unit incurs to acquire title or permanent interest in the project site based on the approved Green Acres loan or grant;

2. Relocation payments for persons, families, or businesses displaced by the acquisition, under N.J.S.A. 52:31B-1 et seq. The local unit shall provide to Green Acres a Workable Relocation Assistance Plan (WRAP) approved by the New Jersey Department of Community Affairs;

3. Costs which the local unit incurs for any appraisal obtained in accordance with N.J.A.C. 7:36-6.6;

4. Survey costs which the local unit incurs for the field determination of acquired acreage and wetlands;

5. Costs of the preliminary assessment required under N.J.A.C. 7:36-6.7(d); and

6. Building demolition costs to a maximum of 10 percent of the eligible land cost or \$100,000, whichever is less.

(b) The following costs are not allowable:

1. Administrative and operating costs related to the acquisition;

2. Salaries and/or wages of employees of the local unit;

3. Real property taxes; and

4. Costs associated with an application for Green Acres funding that the Department does not approve under N.J.A.C. 7:36-6.7, except appraisal costs eligible under (a)3 above.

(c) Costs of a condemnation award in excess of the eligible land cost of the project site may be funded by a supplemental loan or grant under N.J.A.C. 7:36-8.3.

SUBCHAPTER 5. LOCAL UNIT ACQUISITION PROJECTS: FUNDING AWARD CATEGORIES

7:36-5.1 Funding award categories

(a) A standard acquisition project is the purchase of a project site which does not possess inherently unique or sensitive natural resource characteristics but which is suitable for active or passive recreation. A standard acquisition project is funded by a low-interest (two percent) loan. The Department shall establish a maximum funding limit as provided under N.J.A.C. 7:36-4.1(a).

(b) A grant incentive project is the purchase of a project site that has environmental significance, has historic significance, provides waterfront access opportunities, is partially funded by donation, or is identified on an Open Space and Recreation Plan, as set forth in (b)1 through 5 below. A grant incentive project is funded by a loan for 75 percent of the cost of acquisition and a grant for 25 percent of the cost of acquisition, except for those projects described at (b)4 below for which the grant shall match the donation up to 25 percent of the cost of acquisition. The Department shall establish a maximum funding limit as provided under N.J.A.C. 7:36-4.1(a). A grant incentive project must qualify under one of the following

categories:

1. Acquisitions which involve preservation of environmentally significant areas such as stream corridors, endangered species habitat, unique natural areas or land types, and acquisitions of conservation corridors or linkages. To qualify under this subcategory, a minimum of 12 priority points must be assigned to the acquisition project under N.J.A.C. 7:36-7.1(b)2. Properties purchased under this subcategory shall remain in a natural state in the manner and to the extent described in the project agreement as a special condition under N.J.A.C. 7:36-9.1(a), provided, however, that the local unit must obtain prior approval of any development under N.J.A.C. 7:36- 20.4;

2. Acquisitions which involve protection of cultural, historic, or archaeological resources listed or eligible for inclusion in the National and State Registers of Historic Places. To qualify under this subcategory, a minimum of five priority points must be assigned to the acquisition project under N.J.A.C. 7:36-7.1(b)3. Properties purchased under this subcategory shall remain undisturbed in the manner described in the project agreement as a special condition under N.J.A.C. 7:36-9.1(a) unless Green Acres, in consultation with the Department's Historic Preservation Office or its successor, provides prior approval for any development of the site;

3. Acquisitions of sites that are suitable for, and primarily intended to provide, public access opportunities to the waterfront. To qualify under this subcategory, a minimum of four priority points must be assigned to the acquisition project under N.J.A.C. 7:36-7.1(b)5iii;

4. Acquisitions which involve a donation of cash or a portion of the eligible land cost of the project site, not tied to any subdivision approval; or

5. Acquisitions of sites identified on an Open Space and Recreation Plan approved by Green Acres, provided that the local unit has adopted and is collecting an open space tax.

(c) An urban acquisition project is the purchase of a project site in a qualified municipality under N.J.S.A. 52:27D-178. An urban acquisition project is funded by a grant subject to the limits described in (c)1 and 2 below. If funds are available, an urban acquisition project also shall be eligible for a loan to supplement the grant. The Department shall establish a maximum funding limit as provided under N.J.A.C. 7:36-4.1(a).

1. A grant from funds made available under P.L. 1983, c.354 and P.L. 1987, c.265 shall be limited to no more than 25 percent of the cost of acquisition.

2. A grant from funds made available under P.L. 1961, c.46, P.L. 1971, c.165, P.L. 1974, c.102, and P.L. 1978, c.118, P.L. 1989, c.183, P.L. 1992, c.88, and P.L. 1995, c.204 shall be limited to no more than 50 percent of the cost of acquisition.

SUBCHAPTER 6. LOCAL UNIT ACQUISITION PROJECTS: APPLICATION PROCESS

7:36-6.1 Timing

(a) A local unit may submit an application for Green Acres funding at any time.

(b) At least two times each year, the Department shall rank applications in accordance with N.J.A.C. 7:36-7.1(d) and shall approve or deny applications in accordance with N.J.A.C. 7:36-6.7(a).

7:36-6.2 Preapplication procedures

(a) The Department encourages local units to request a preapplication conference with Green Acres as early as possible, prior to application submission, to discuss project eligibility, award criteria and application requirements.

(b) A local unit shall not enter into a purchase or option contract or institute condemnation proceedings unless it has first received an at-risk authorization under N.J.A.C. 7:36-6.3 or accepted the eligible land cost under N.J.A.C. 7:36- 8.1.

(c) The local unit shall hold a public hearing on the proposed acquisition project. Only the proposed acquisition project, and other proposed Green Acres projects, if any, shall be the subject matter of the public hearing.

1. The Department encourages the local unit to hold the public hearing before it submits its application for Green Acres funding. The local unit shall, however, hold the public hearing no later than 60 days after the local unit receives the letter of eligibility described at N.J.A.C. 7:36-6.5(c).

2. The local unit shall publish a notice of the public hearing in the official newspaper of the municipality in which the proposed project is located, and, if the local unit is a county, also in a newspaper of general interest and circulation, at least 15 days prior to the hearing.

7:36-6.3 At-risk authorization to proceed with acquisition

(a) Within 14 days of a request, Green Acres shall authorize, in writing, a local unit to proceed with the acquisition of a project site at its own risk. This at-risk authorization shall not jeopardize the project's eligibility for funding if the local unit submits an application for the project under this subchapter.

(b) Green Acres is not obligated to award funding for the acquisition of any project site for which it provides an at-risk authorization under (a) above and for which the local unit submits an application.

(c) A local unit is not obligated to submit an application under this subchapter or to acquire any project site for which it receives an at-risk authorization under (a) above.

7:36-6.4 Application requirements

(a) A local unit shall submit an application containing all of the following:

1. A completed application form, provided by Green Acres, that identifies the local unit; lists the project type and location; contains a brief description of the project and an estimate of the funding request amount; identifies the local unit's contact person for the Green Acres project; and contains the certification of the person authorized by the enabling resolution required under (a)2 below to submit the application.

i. The local unit shall base the estimated funding request amount on the present market value or anticipated purchase price of the project site and not solely on the tax assessed value of the project site. The local unit shall include estimated survey, appraisal, and preliminary assessment costs, and estimated costs of relocation services and building demolition (if applicable);

2. A certified copy of the enabling resolution, following an example provided by Green Acres, authorizing the submission of a Green Acres application and authorizing a person to execute the project agreement and declaration described in N.J.A.C. 7:36-9.1(a);

3. A Recreation and Open Space Inventory (ROSI) form as provided by Green Acres, listing each parcel of recreation and conservation land held by the local unit as of the date of the application, as well as easements and other interests designated for public open space which are under the local unit's jurisdiction. All recreation and conservation interests in lands shall be listed regardless of how they were acquired (for example, whether as a condition of a development approval, as a donation, through negotiation, or in any other manner).

i. The listing shall identify each parcel, specify whether each parcel is funded or unfunded parkland, and include acreage, and lot and block designation as shown on the tax map submitted under (a)3ii below.

ii. The local unit shall submit a tax map current as of the date of application showing each parcel of parkland listed on the ROSI, with the approximate boundaries of each such parcel clearly marked in colored ink.

iii. The chief executive officer and the planning board chairperson if the local unit is a municipality, or the chief executive officer and the parks director if the local unit is a county, shall sign the ROSI.

iv. The ROSI and the tax map required under this paragraph need not be submitted if:

(1) Green Acres has the ROSI and tax map on file because they were previously submitted by the local unit; and

(2) The local unit certifies that the previously submitted ROSI and tax map are complete and accurate as of the date of application submission;

4. A narrative description of the extent to which the project meets the award criteria under N.J.A.C. 7:36-7.1;

5. A project reference map with dimensions of at least 22 inches by 36 inches and containing the following information:

i. The project name and location;

ii. The parcel number as assigned by the local unit to each adjacent group of lots with one owner. Lots under a single ownership that are physically separated must be assigned individual parcel numbers;

iii. The lot and block numbers and municipality(ies) in which the proposed project site is located;

iv. The owner(s) of record as of the date of application submission;

- v. The area of project site, in acreage or square feet;
 - vi. The dimensions of each lot marked on each perimeter boundary;
 - vii. Improvements shown in approximate location on lots;
 - viii. If the acquisition of part of a lot is proposed, both the area of the part to be acquired and the area of the remainder shall be denoted;
 - ix. The name and block and lot identification of adjacent landowner(s);
 - x. A scale of map proportional to the size of the project site so as to allow an appraiser to prepare an accurate appraisal;
 - xi. An arrow indicating north;
 - xii. The location and area of all known existing easements, road rights-of- way, dune and beach areas, and similar features, with the source of such information identified;
 - xiii. The location and area of tidelands, as determined from New Jersey Tidelands claims maps, conveyance overlays, and atlas sheets;
 - xiv. The location and area of floodplain, as shown on the New Jersey State Flood Hazard Area maps prepared under the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.;
 - xv. The location and area of coastal wetlands, as shown on maps prepared by the Department under the Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq.;
 - xvi. The location and area of freshwater wetlands, as determined from:
 - (1) A wetlands delineation, if one exists, verified by the Department's Land Use Regulation Program or its successor; or
 - (2) Freshwater wetlands maps prepared by the Department under the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq., if they exist; or
 - (3) If the documents listed under (a)5xvi(1) and (2) above do not exist, U.S. Fish and Wildlife Service National Wetlands Inventory (NWI) maps, in conjunction with County Soil Surveys published by the U.S. Department of Agriculture; and
 - xvii. If the local unit is seeking funding for a grant incentive project for the preservation of environmentally significant areas under N.J.A.C. 7:36- 5.1(b), the location and area of any proposed development for recreation and conservation purposes;
6. A street map which clearly indicates the location of the project site.
7. An estimate of annual operating expenses including wages, salaries, equipment and materials to maintain the project site;

8. If held prior to application submission, an affidavit of publication of the notice of public hearing held under N.J.A.C. 7:36-6.2(c), and transcript or minutes of the hearing;

9. Photographic slides and/or prints that clearly show the existing conditions at the proposed project site;

10. A local tax map that indicates the lots and blocks to be acquired; and

11. Letters of support, if any, from the general public, civic groups and agencies, municipal and county planning boards, park commissions, recreation departments, environmental commissions, or other organizations.

(b) All materials submitted under (a) above shall become the property of Green Acres.

(c) Green Acres shall conduct one or more project site inspections to verify the statements in the application. A project site inspection shall also include an examination of the maintenance of other open space areas held by the local unit and an evaluation of the areas to be served by the acquisition project.

(d) A local unit that has submitted an application shall monitor and immediately notify Green Acres of any pending or proposed actions or events affecting the project site such as, but not limited to, any applications made for stream encroachment, Coastal Area Facility Review Act (CAFRA), waterfront development, sanitary landfill, or other Department permits, any application made to the Pinelands Commission under the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50) for projects in the Pinelands Area, local building permits, and subdivision proposals related to the proposed project site. The local unit shall also immediately notify Green Acres of any fires, demolitions, floods, natural disasters, donations, easements, leases, survey discrepancies, or changes in ownership of the project site.

7:36-6.5 Determination and notification of eligibility

(a) Upon receipt of a complete application, Green Acres shall determine if the project is eligible for Green Acres funding in accordance with the requirements of N.J.A.C. 7:36-4.

(b) If the project is determined to be ineligible for funding, Green Acres shall so notify the local unit in writing.

(c) If the project is determined to be eligible for funding, Green Acres shall send the local unit a letter of eligibility that directs the local unit to:

1. Obtain and submit to Green Acres the appraisals required under N.J.A.C. 7:36-6.6; and

2. Hold the public hearing required under N.J.A.C. 7:36-6.2(c) within 60 days from the date of receipt of the letter of eligibility if the hearing was not held prior to application submission.

7:36-6.6 Appraisal procedures

(a) For a parcel with an estimated land value of less than \$250,000, a local unit shall obtain at least one professionally and independently prepared appraisal, or, at its option, it may obtain two. For a parcel with an estimated land value of \$250,000 or more, the local unit shall obtain two professionally and

independently prepared appraisals.

(b) The local unit shall obtain each appraisal required under (a) above as follows:

1. The local unit shall request a meeting with Green Acres staff to discuss the selection and hiring of an appraiser and the scope of work;
2. The local unit shall hire a State-certified appraiser who Green Acres has approved based on such appraiser's work experience, professional certification, and sample work product;
3. All appraisals shall be prepared in the format supplied to the local unit by Green Acres;
4. The local unit shall request a meeting with Green Acres staff and the appraiser(s) to discuss the scope of work and to visit the project site, prior to starting the appraisal(s); and
5. The local unit shall submit to Green Acres one copy of each completed appraisal.

(c) Green Acres shall require a local unit to obtain a report by an engineer, architect, or other specialist to supplement the appraisal of the project site if Green Acres determines that the unique nature of the project site necessitates a cost approach to valuation.

(d) The local unit shall immediately submit to Green Acres, in writing, any information it has which could affect the appraised value of the project site.

(e) For a project site consisting of more than one parcel, the local unit may, with prior approval from Green Acres, obtain an appraisal of fewer than all of the parcels and extrapolate an estimated value of the entire project site. If the project is approved, the local unit shall obtain appraisals, in accordance with this section, of the remaining parcels prior to the acquisition of each.

(f) If an appraisal submitted to Green Acres under (b) above must be updated for a condemnation proceeding, the local unit shall comply with the appraisal procedures of this section.

7:36-6.7 Approval or denial of application; award of funding; procedural letter

(a) The Department shall, based on the total priority points assigned to the project under N.J.A.C. 7:36-7.1, approve or deny the application, provided:

1. Green Acres has received the appraisal(s) required under N.J.A.C. 7:36- 6.6; and
2. If the local unit held the public hearing on the proposed acquisition project required under N.J.A.C. 7:36-6.2(c) after it submitted its application, Green Acres has received from the local unit an affidavit of publication of the notice of the hearing and a transcript or minutes of the hearing.

(b) If the application is approved, the Department shall notify the local unit in writing of the amount of the Green Acres funding award.

(c) If the application is denied, the Department shall notify the local unit in writing.

(d) After the notification of the funding award under (b) above, Green Acres shall send the local unit a procedural letter that directs the local unit to obtain a preliminary assessment of the project site and submit to Green Acres the preliminary assessment report. Upon receipt of the preliminary assessment report, Green Acres shall determine if the report contains the information required under the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, and shall notify the local unit as follows:

1. If the preliminary assessment report does not contain the required information, Green Acres shall send the local unit a deficiency letter identifying the information that must be submitted. The local unit shall submit the information by the date specified in the letter.

2. If the preliminary assessment report contains the required information and does not identify any areas of concern, as defined under the Technical Requirements for Site Remediation, Green Acres shall send the local unit a letter acknowledging the sufficiency of the preliminary assessment report. The chief executive officer of the local unit shall certify, on a form provided by Green Acres with the sufficiency letter, that the local unit has reviewed the preliminary assessment report and determined to proceed with the acquisition of the project site. The local unit shall return the certification to Green Acres within 30 days of the date of the sufficiency letter.

3. If the preliminary assessment report contains the required information and identifies one or more areas of concern, as defined under the Technical Requirements for Site Remediation, Green Acres shall send a letter notifying the local unit that the areas of concern must be addressed to the Department's satisfaction before the local unit acquires the project site.

SUBCHAPTER 7. LOCAL UNIT ACQUISITION PROJECTS: AWARD CRITERIA

7:36-7.1 Project award criteria

(a) The Department shall assign priority points in accordance with (b) below to each acquisition project after it has notified the local unit of the project's eligibility under N.J.A.C. 7:36-6.5. The assignment of priority points reflects the degree to which a proposed project is consistent with the 1994-1999 New Jersey Open Space and Outdoor Recreation Plan Summary (available from the Green Acres Program in the Department at PO Box 412, Trenton, NJ 08625-0412; 609-984-0500), as supplemented and/or amended; and the New Jersey State Development and Redevelopment Plan (State Plan) of June 1992, as revised and/or readopted under the State Planning Act, N.J.S.A. 52:18A-196 et seq. or the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50) adopted under the Pinelands Protection Act (N.J.S.A. 13:18A-1 et seq.), as applicable, and the findings and declarations and, as applicable, special considerations for funding awards set forth in the Green Acres Bond Acts.

(b) Priority points shall be assigned according to the following protocol:

1. A maximum of 35 points may be assigned based on the extent to which a project satisfies the need for open space for recreation in a particular county, as follows:

i. Based on the intensity of need for open space for recreation, one to five points. Green Acres calculates the need for recreation open space in each county in New Jersey by multiplying the acres-per-population standard for municipally owned parkland (eight acres of municipally owned parkland held for recreation per thousand population) by the county population (based on the U.S. Census data), and multiplying the

acres-per-population standard for county owned parkland (12 acres of county-owned parkland held for recreation per thousand population) by the county population, and then subtracting from those products the existing acreage in the county of municipally and county owned parkland, respectively;

ii. Based on the deficit in open space for recreation under the balanced land use guidelines for municipalities and counties, one to five points. The balanced land use guidelines recognize competing uses (for example, housing versus ballfields) for developable land and are expressed as goals. For a municipality, the balanced land use goal is that a minimum of three percent of the developed and developable area of the municipality should be held as open space for recreation. For a county, the balanced land use goal is that a minimum of seven percent of the developed and developable area of the county should be held as open space for recreation;

iii. Based on the availability of similar open space for recreation within the area from which the majority of users of the proposed project are expected to come, one to 25 points.

2. A maximum of 30 points may be assigned based on the extent to which a project meets environmental protection goals, as follows. A minimum of 12 points is needed for a project to qualify as a grant incentive project under N.J.A.C. 7:36-5.1(b)1:

i. A project that contains open space and/or conservation areas of sufficient size and located so as to:

(1) Protect wildlife habitat, zero to three points;

(2) Enhance or preserve Critical Environmental Sites identified in the State Plan or the Pinelands Comprehensive Management Plan, as applicable, and/or other unique natural areas or land types (for example, steep slope, dune, beach, wetland, forest land), zero to three points;

(3) Provide additions to or linkages between existing public recreation and/or open space areas, zero to three points;

(4) Support regional open space and/or conservation initiatives (for example, landscape ecology, biodiversity, wildlife corridors, shore protection, greenways), zero to three points;

(5) Protect documented threatened and/or endangered species habitat, zero to three points;

ii. A project that contains coastal and watershed areas, including forests, shorelines, and stream corridors of sufficient size and located so as to:

(1) Establish an integral link in an existing or planned local, regional, or statewide conservation initiative, or a component of a Wild and Scenic Rivers system under the National Wild and Scenic Rivers Act, 16 U.S.C. § 1271-1287 and/or the New Jersey Wild and Scenic Rivers Act, N.J.S.A. 13:8-45 et seq., zero to three points;

(2) Facilitate water quality protection efforts, zero to three points;

(3) Provide significant natural flood storage, zero to three points;

(4) Act as a physical or visual buffer between a significant natural resource or feature and development, or provide visual or physical access to a waterbody, zero to three points;

(5) Protect headwaters, tributaries, or shorelines, zero to three points.

3. A maximum of 15 points may be assigned based on the extent to which a project meets historic resource preservation goals, as follows. A minimum of five points is needed for a project to qualify as a grant incentive project under N.J.A.C. 7:36-5.1(b)2:

i. A project on, containing, or adjacent to a site included on or eligible for inclusion in the New Jersey Register of Historic Places under N.J.S.A. 13:1B-15.128 et seq. and/or the National Register of Historic Places under 16 U.S.C. §§470 et seq., or a Critical Historic Site identified in the State Plan or the Pinelands Comprehensive Management Plan, as applicable, zero to three points;

ii. A project that provides additions to or linkages between existing public recreation and/or open space areas, zero to three points;

iii. A project that is a component of an historic district designated as such under N.J.S.A. 13:1B-15.128 et seq., zero to three points;

iv. A project that is part of an ongoing historic preservation or restoration project or historic study or investigation, zero to three points;

v. A project with historic integrity of location, design, setting, materials, workmanship, feeling, and association, zero to three points.

4. A maximum of 10 points may be assigned based on the extent to which public involvement and support in the planning process for a project, beyond the minimum requirement of a public hearing under N.J.A.C. 7:36-6.2, has been sought, as follows:

i. Public support, as demonstrated through letters from the municipal and county planning boards, park agencies, recreation departments, environmental commissions, user groups such as leagues or clubs, and the general public, zero to five points;

ii. Consistency with the State Plan or the Pinelands Comprehensive Management Plan, as applicable, the New Jersey Open Space and Outdoor Recreation Plan, and local and county land use plans, especially open space and recreation elements thereof, as demonstrated in excerpts from or specific references to such plans in the project application, zero to five points;

5. A maximum of 24 points may be assigned based on the overall quality of a project, as follows:

i. A project that is accessible to population centers; is accessible by public transportation, walking or bicycling; and will create public access where none exists or where existing access is undeveloped or restricted, zero to four points;

ii. A project that has recreation development potential, because it is suitable for major outdoor recreation facility development, improves management or expansion of recreation facilities or services, is suitable for the use and/or development of appropriate water dependent recreation activities or facilities, provides environmental and/or historic interpretive opportunities, or provides passive recreation opportunities, zero to 10 points;

iii. A project that improves needed public access (visual and/or physical) to water, zero to six points. A minimum of four points is needed for a project to qualify as a grant incentive project under N.J.A.C. 7:36-5.1(b) 3;

iv. A project that is cost-effective as determined by weighing the quality of conservation or recreation opportunities provided by the project against the anticipated cost. Considerations include: cost of alternative locations and facilities, bargain sale, donation, easement or takings avoidance, and cost of future operation and maintenance, zero to four points.

6. A maximum of nine points may be assigned to a project that incorporates or accomplishes the below-listed items, as follows:

i. Private investment and/or ecotourism potential, public/private sector venture, and/or supports municipal and county (urban complex) strategic revitalization plans and programs consistent with the State Plan or the Pinelands Comprehensive Management Plan, as applicable, one point;

ii. Waterfront development or redevelopment, one point;

iii. Trails, bike paths, or greenways, one point;

iv. Historic or archaeologic resource enhancement or preservation, one point;

v. Scheduled recreation programming, one point;

vi. Open play areas, one point;

vii. Multiple use projects (active and passive recreation opportunities), one point;

viii. Addition to a prior Green Acres-funded acquisition or development, one point;

ix. Private donation of land, equipment, labor, or cash, one point.

7. Five points are assigned to a project undertaken by a county or municipality that has not previously received Green Acres funding.

8. A maximum of five points may be assigned to a project for which a donation exceeds 25 percent of the eligible land cost. One point will be awarded for each additional five percent by which the donation exceeds 25 percent of the eligible land cost.

(c) The Department shall determine the total number of priority points assigned to each project under (b) above.

(d) The Department shall rank the projects on a priority list according to the total number of priority points assigned each project, with the project assigned the greatest total number of priority points ranking first.

SUBCHAPTER 8. LOCAL UNIT ACQUISITION PROJECTS: DETERMINATION OF ELIGIBLE LAND COST

7:36-8.1 Determination of eligible land cost

(a) Green Acres shall determine the sufficiency of any appraisals submitted under N.J.A.C. 7:36-6.6 and shall notify the local unit in writing of any deficiencies that prevent the determination of eligible land cost.

(b) Green Acres shall determine the eligible land cost for each parcel within a project site as follows:

1. If only one appraisal has been obtained under N.J.A.C. 7:36-6.6 on a parcel, the eligible land cost shall be the certified market value.

2. If two appraisals have been obtained under N.J.A.C. 7:36-6.6 on a parcel, and the difference between the two appraisal values is greater than 10 percent of the higher appraisal value, the eligible land cost shall be the certified market value.

3. If two appraisals have been obtained under N.J.A.C. 7:36-6.6 on a parcel, and the difference between the two appraisal values is 10 percent of the higher appraisal value or less, the eligible land cost shall be the average of the appraisal values. The local unit may, however, request that Green Acres provide a certified market value, in which case the eligible land cost shall be that certified market value.

(c) In order to certify the market value of a parcel, Green Acres shall review the appraisal(s) obtained under N.J.A.C. 7:36-6.6, inspect the project site, examine the comparable sales used by the appraiser(s), and review of all other data pertinent to the market value as estimated by the appraiser(s).

(d) Green Acres shall send to the local unit a statement of the eligible land cost for review and acceptance in accordance with N.J.A.C. 7:36-8.2.

(e) If the survey of a parcel submitted with an advance payment or reimbursement request under N.J.A.C. 7:36-9.3(c) shows an acreage total different from the acreage total shown in the statement of eligible land cost, Green Acres shall notify the local unit or appraiser(s), request an adjusted market value determination, if needed, and revise accordingly the eligible land cost to reflect the actual acreage of the parcel.

7:36-8.2 Acceptance of eligible land cost

(a) Within 60 days after the local unit receives from Green Acres the statement of eligible land cost under N.J.A.C. 7:36-8.1, the local unit shall submit to Green Acres a letter stating that the local unit has reviewed and accepts the eligible land cost of the parcel, and that the local unit has the ability and intention to finance the cost of the parcel, should such cost exceed the amount of Green Acres funding.

(b) Receipt by Green Acres of the letter submitted under (a) above constitutes the local unit's acceptance of the eligible land cost.

7:36-8.3 Supplemental funding

(a) A local unit may request, in writing, supplemental funding for a project if it has accepted the eligible land cost under N.J.A.C. 7:36-8.2 and if:

1. The eligible land cost exceeds the loan or grant amount awarded under N.J.A.C. 7:36-6.7;
2. A condemnation award exceeds the eligible land cost; or
3. The local unit has been unable to reach agreement on the purchase price after bona fide negotiations with the seller, as certified by the local unit's attorney.

(b) Provided sufficient funds are available, Green Acres shall increase the amount of funding for a project in response to a request submitted under (a) above as follows:

1. If the eligible land cost exceeds the loan or grant amount awarded under N.J.A.C. 7:36-6.7, Green Acres shall increase the amount of funding to cover the eligible land cost and allowable costs under N.J.A.C. 7:36-4.9;
2. If a condemnation award exceeds the eligible land cost, Green Acres shall increase the amount of funding to cover the condemnation award and allowable costs under N.J.A.C. 7:36-4.9; or
3. If the local unit provides a certification from its attorney that the local unit has been unable to reach agreement on the purchase price after bona fide negotiations with the seller, Green Acres shall increase the amount of funding by an amount that is 10 percent more than the eligible land cost. This 10 percent increase in funding shall be in the form of a loan only, and not a grant.

(c) Green Acres and the local unit shall execute an amendment to the project agreement in accordance with N.J.A.C. 7:36-9.1 to reflect any supplemental funding provided under this section.

SUBCHAPTER 9. LOCAL UNIT ACQUISITION PROJECT: PROJECT AGREEMENT, NEGOTIATIONS FOR PURCHASE OF PROJECT SITE, DISBURSEMENTS, LOAN REPAYMENT, AND ACCOUNTING AND RECORDKEEPING REQUIREMENTS

7:36-9.1 Project agreement

(a) Green Acres shall send the project agreement to the local unit. The local unit shall ensure that the project agreement and declaration are approved and signed by the local unit's attorney, and executed by the person authorized under the resolution described at N.J.A.C. 7:36-6.4(a)2. The project agreement shall contain:

1. An identification of the parcels to be acquired as part of the project site;
2. The declaration, which contains the Recreation and Open Space Inventory (ROSI) required under N.J.A.C. 7:36-6.4(a) as adjusted to correct inaccuracies, if any, discovered during Green Acres' review of the funding application;
3. The estimated cost of acquisition of the project site;
4. Special conditions for the grant incentive projects under N.J.A.C. 7:36-5.1(b)1 and 2, and other special conditions as appropriate;

5. The requirements for recordkeeping, project administration, and loan repayment;

6. The requirement that the deed for each parcel to be acquired as part of the project site contain the following clause:

"It is understood by the seller that the lands being conveyed herein are being purchased with funds from the _____ Green Acres Bond Act (P.L. _____, c. _____) and that this conveyance is made subject to Green Acres restrictions, and the purchaser herein agrees to accept these lands with the Green Acres restrictions against disposal or diversion to a use for other than recreation and conservation purposes"; and

7. Other terms and conditions, including a statement of the remedies described at (f) through (i) below and a statement of the requirements for maintenance, use, development, and disposal or diversion of parkland as described at N.J.A.C. 7:36-20.

(b) When the local unit returns the executed project agreement to Green Acres, it shall also submit verification that a bond ordinance, supplemental debt statement, and revised capital budget have been approved by the Department of Community Affairs.

(c) Upon receipt of the items listed at (b) above, the Department shall establish an account from which Green Acres shall disburse the loan or grant.

(d) Green Acres shall send the declaration to the local unit within 30 days of transferring to the local unit the first disbursement of Green Acres funds under N.J.A.C. 7:36-9.3. The local unit shall have the declaration recorded by the county clerk or registrar and returned to Green Acres.

(e) Green Acres and the local unit shall execute an amendment to the project agreement to add a parcel to the project site if the local unit demonstrates that the parcel meets the project eligibility requirements at N.J.A.C. 7:36- 4; to extend the project period established in the project agreement if the local unit demonstrates that it is making a good faith effort to complete the project in an expeditious manner; or to reflect any supplemental funding provided under N.J.A.C. 7:36-8.3.

(f) In addition to any other rights or remedies available to the Department under law, if the local unit does not comply with any of the requirements of the project agreement, this chapter, or the Green Acres laws, or if the local unit makes any material misrepresentation in the project application and/or the documentation submitted in support of the application, the Department may take any of the following actions:

1. Issue a written notice of noncompliance directing the local unit to take and complete corrective action within 30 days of receipt of the notice.

i. If the local unit does not take corrective action, or if the corrective action taken is not adequate in the judgment of the Department, then the Department may take any of the actions described at (f)2 through 4 and (g) below;

2. Withhold a grant or loan disbursement or portion thereof;

3. Terminate the project agreement; and/or

4. Demand immediate repayment of all Green Acres funds that the local unit has received.

(g) If the local unit fails to comply with any of the terms of the project agreement, this chapter, or the Green Acres laws, the Department may initiate suit for injunctive relief or to seek specific enforcement, without posting bond, it being acknowledged that any actual or threatened failure to comply will cause irreparable harm to the State and that money damages will not provide an adequate remedy.

(h) If the Department incurs legal or other expenses, including its own personnel expenses, for the collection of payments due or in the enforcement or performance of any of the local unit's obligations under the project agreement, this chapter, or the Green Acres laws, the local unit shall pay these expenses on demand by the Department.

(i) The Department is not required to mitigate any damages to the local unit resulting from the local unit's noncompliance with the terms of the project agreement, this chapter, or the Green Acres laws.

7:36-9.2 Negotiations for purchase of project site

(a) The local unit may enter into a purchase or option contract with the property owner only after the local unit accepts the eligible land cost under N.J.A.C. 7:36-8.2 or after the local unit receives the at-risk authorization under N.J.A.C. 7:36-6.3.

(b) Any person who performed an appraisal under N.J.A.C. 7:36-6.6 of any parcel in the project site shall not conduct negotiations for such parcel.

7:36-9.3 Disbursement of loan or grant

(a) Green Acres shall disburse the loan or grant in advance of closing, or as reimbursement after closing or after the filing of a declaration of taking.

(b) If a local unit seeks payment in advance of closing, it shall submit its request at least 60 working days before the scheduled date of closing.

(c) For each parcel of land in the project site for which payment is requested, the local unit shall submit:

1. For payment in advance of closing, the following:

i. A copy of the contract of sale;

ii. A land survey plan, prepared in accordance with the rules of State Board of Professional Engineers and Land Surveyors at N.J.A.C. 13:40-5, showing acreage, tax map references (blocks and lots) current as of the date of the plan, all easements of record, fences, improvements, encroachments, water courses, wetlands, and pertinent natural features, submitted on paper (two copies) and in a format compatible with the Mapping and Digital Data Standards at N.J.A.C. 7:1, Appendix A;

iii. Two copies of the metes and bounds description, stating acreage, corresponding to the survey required under (c)1ii above, submitted on the surveyor's letterhead, and signed and sealed by the surveyor;

iv. A copy of the title insurance binder, with copies of the deed of record and of all easements,

restrictions, and other instruments of record as attachments. The binder shall name the State as additional insured;

v. A copy of each cancelled check (both sides), voucher, or invoice for appraisal, preliminary assessment, and survey costs;

vi. A Green Trust Acquisition Payment Form, which Green Acres provides with the statement of eligible land cost under N.J.A.C. 7:36-8.1, with the following items completed:

(1) The project name, block(s) and lot(s), name of local unit, and county;

(2) An itemized statement of the cost of acquisition of the parcel; and

(3) A certification by the local unit's chief executive officer, chief financial officer, or municipal clerk that the information contained in the form is accurate and that no bonus has been given or received in connection with any bill for which the local unit seeks payment; and

vii. If the project involves a donation, a letter of intent from the donor which expresses the donor's intent to donate cash or a portion of the eligible land cost of the project site;

2. For reimbursement after closing or after the filing of a declaration of taking, the following:

i. A copy of the cancelled check (both sides) for the purchase of the parcel(s) in the project site;

ii. A land survey plan, prepared in accordance with the rules of State Board of Professional Engineers and Land Surveyors at N.J.A.C. 13:40-5, showing acreage, tax map references (blocks and lots) current as of the date of the plan, all easements of record, fences, improvements, encroachments, water courses, wetlands, and pertinent natural features, submitted on paper (two copies) and in a format compatible with the Mapping and Digital Data Standards at N.J.A.C. 7:1, Appendix A;

iii. Two copies of the metes and bounds description, stating acreage, corresponding to the survey required under (c)2ii above, submitted on the surveyor's letterhead, and signed and sealed by the surveyor;

iv. A copy of the title insurance policy, with copies of the deed of record and of all easements, restrictions, and other instruments of record as attachments, and conforming to the following:

(1) The policy must name the State as additional insured;

(2) The policy must replace the survey exception with a survey endorsement that insures title to the area within the metes and bounds description;

(3) The policy amount must be at least equal to the eligible land cost; and

(4) Schedule B, Section II (Exceptions) must note that the parcel is subject to the Green Acres restrictions;

v. A copy of the recorded deed or declaration of taking, containing the metes and bounds description required under (c)2iii above, including the clause stating that the parcel is subject to the Green Acres restrictions as required by the project agreement under N.J.A.C. 7:36- 9.1(a);

vi. A copy of each cancelled check (both sides), voucher, or invoice for appraisal, preliminary assessment, survey, relocation, and any other allowable costs under N.J.A.C. 7:36-4.9;

vii. A Green Trust Acquisition Payment Form, which Green Acres provides with the statement of eligible land cost under N.J.A.C. 7:36-8.1, with the following items completed:

(1) The project name, block(s) and lot(s), name of local unit, and county;

(2) An itemized statement of the cost of acquisition of the parcel;

(3) A certification by the local unit's chief executive officer, chief financial officer, or municipal clerk that the information contained in the form is accurate and that no bonus has been given or received in connection with any bill for which the local unit seeks payment;

(4) A justification of any difference between the purchase price and the eligible land cost of the parcel; and

(5) A justification of any difference between the parcel acreage as described in the appraisal and the parcel acreage purchased; and

viii. If the project involves a donation, a letter of intent from the donor which expresses the donor's intent to donate cash or a portion of the eligible land cost of the project site.

3. All documents required under (c)2 above not submitted with a request for payment in advance of closing shall be submitted as expeditiously as possible after closing.

(d) Upon receipt of a request for payment under (c) above, Green Acres shall:

1. Send to the local unit a payment invoice for the loan or grant amount. The local unit's chief executive officer, chief financial officer, or municipal clerk shall verify, sign, and return the invoice to Green Acres for processing; and

2. Conduct a site inspection of the parcel of land for which the payment is requested.

(e) The local unit shall establish a separate bank account for the purpose of receiving Green Acres loan disbursements for the project. The State shall transmit each loan disbursement directly into such account, which will be subject to audit by the State. If a local unit has undertaken more than one Green Acres funded project, it may establish a single bank account to receive all loan payments for the projects.

(f) The State shall mail each grant disbursement to the local unit in the form of a check. The local unit shall not sign over the check to the property owner or any other person but shall deposit the check into the local unit's bank account.

(g) The local unit shall immediately inform Green Acres if the closing date established in the contract of sale for the project site is postponed for any reason. A local unit that has received a disbursement in advance of a scheduled closing that is postponed is subject to the following conditions:

1. As of the 30th day after the disbursement is made, the local unit shall pay to the State interest accrued

on the amount of the disbursement from that day up to the 90th day after the disbursement. The interest rate shall be the judgment interest rate established under the New Jersey Court Rules Governing Civil Practice at 4:42-11(a)(ii) in effect on the 30th day.

2. As of the 90th day after the disbursement is made, the local unit shall repay to the State the amount of the disbursement plus accrued interest from 30 days after disbursement to the date of repayment. The interest rate shall be the judgment interest rate established under the New Jersey Court Rules Governing Civil Practice at 4:42-11(a)(ii) in effect on the 90th day.

(h) A local unit that has repaid the disbursement plus accrued interest under (g)2 above may, upon acquisition of the project site, submit a request for reimbursement after closing in accordance with (c)2 above.

(i) The local unit may unilaterally withdraw the project at any time before it receives Green Acres funds. The local unit shall not terminate the project agreement after it receives any Green Acres funds without the written consent of Green Acres.

(j) If the local unit terminates the project agreement under (i) above, the local unit is responsible for any costs of acquisition incurred as of the time of termination. The local unit shall also repay, with interest at the judgment interest rate established under the New Jersey Court Rules Governing Civil Practice at 4:42-11(a)(ii) in effect at the time of termination, any disbursements which Green Acres made to the local unit for the project.

7:36-9.4 Terms of loan repayment

(a) A local unit shall repay the loan amount in semi-annual installments over a period of not more than 20 years from the date of the initial disbursement to the date of the final repayment. The local unit may prepay the loan in whole or in part at any time without penalty. An accelerated repayment schedule may be established under the project agreement executed under N.J.A.C. 7:36-9.1.

(b) Interest shall accrue on the outstanding loan principal at a rate not to exceed two percent per year. Interest accrued against each disbursement shall be paid to the Treasurer of the State three months after the date of the final disbursement.

(c) The first repayment of principal shall be paid to the Treasurer of the State nine months after the final disbursement, two years after the date of the first disbursement, or the date established in the project agreement, whichever is earliest.

(d) The local unit shall allocate a portion of its budget to meet the annual debt service on the loan.

(e) The Department shall assess a late fee when the local unit fails to make any repayment within 30 days of the scheduled payment due date, as follows:

1. When a payment is 30 to 59 days past due, five percent of the payment amount due.
2. When a payment is 60 to 89 days past due, 10 percent of the payment amount due.
3. When a payment is 90 or more days past due, 15 percent of the payment amount due.

(f) A local unit that fails to make payment within 90 days of the repayment due date shall be in default of the project agreement. Upon default:

1. All outstanding principal, interest, and late fees are payable immediately; and
 2. Interest accrues at a rate of two percent per year on the outstanding principal, interest, and late fee, calculated from the repayment due date.
- (g) Repayment of the loan in full does not terminate the Green Acres restrictions on the local unit's funded and unfunded parkland.

7:36-9.5 Accounting and recordkeeping

(a) The local unit shall maintain and make available to the Department for inspection on request all financial documents and records related to the project for three years in accordance with (d) below.

(b) The local unit, its contractors, and subcontractors shall employ generally accepted accounting procedures that adequately identify the costs associated with the Green Acres loan or grant.

(c) The local unit shall maintain separate records for each project including the amount, receipt, and disposition of all funding received for the project, including Green Acres loans and grants, and contributions, gifts, or donations from any other sources.

(d) The local unit shall provide a duly authorized representative of the Department access to all records, books, documents, and papers pertaining to the project agreement and/or the project for audit, examination, excerpt, and transcript purposes. Such records shall be maintained and access shall be provided during performance of the project and for three years after the latter date of either final repayment or audit resolution. The local unit shall include this requirement in all project-related contracts.

(e) The local unit shall conduct annual audits and submit audit reports in conformance with the Single Audit Act of 1984, P.L. 98-502 and the Single Audit Act Amendments of 1996, P.L. 104-156, Federal OMB Circular A-133: "Audits of State and Local Governments," incorporated herein by reference, and State OMB Circular 98-07: "Single Audit Policy," incorporated herein by reference.

1. Audit reports shall address the local unit's compliance and all specific instances of noncompliance with the material terms and conditions of the project agreement and applicable laws and regulations.

2. Audit reports shall contain an itemized schedule of all project-related financial assistance received by the local unit identifying: grantor agency, program title, State account number, and total disbursement.

(f) The Department shall adjust the local unit's final payment, if necessary, based on the results of the annual audit.

SUBCHAPTER 10. LOCAL UNIT DEVELOPMENT PROJECTS: PROJECT ELIGIBILITY

7:36-10.1 General provisions

(a) The Department shall establish a maximum funding limit per project or per applicant based on available funds and project priorities established under N.J.A.C. 7:36-13.1. There is no minimum or maximum loan or grant request amount. Any Green Acres funding award is subject to legislative appropriation.

(b) A development project shall be located on land which is owned in fee simple by the local unit, or on land for which the local unit has obtained an irrevocable lease approved by Green Acres for at least 25 years.

(c) A local unit is responsible for meeting all requirements of all Green Acres laws, other State statutes, Federal statutes, and local ordinances, as applicable.

7:36-10.2 Eligible projects

(a) Developments for recreation and conservation purposes, as defined at N.J.A.C. 7:36-2.1, are eligible for Green Acres funding. Development projects may include, for example:

1. A facility that will support the increased public use or enjoyment of outdoor recreation and conservation land, such as a facility for outdoor games and sports, winter sports, boating, picnicking, fishing, biking, hiking, swimming, camping, nature and historic interpretation, or similar activities;

2. Lighting for an existing recreational or conservation facility;

3. A parking area that is part of a larger outdoor recreation or conservation project;

4. A building, such as a restroom or comfort facility, administrative office, maintenance and storage area, or other similar structure;

5. A structure that partially encloses an outdoor recreation facility for the purpose of extending the season of use;

6. Restoration or rehabilitation of a facility that was developed 20 or more years before the date of the local unit's application with funding from Green Acres or under the Land and Water Conservation Fund Act of 1965, 16 U.S.C. §460l, the Urban Park and Recreation Recovery Program, 16 U.S.C. § 2501, or any other Federal or State funding program administered through Green Acres.

- i. A facility that was developed with such funding fewer than 20 years before the date of the application may be eligible under this paragraph if the local unit demonstrates that the restoration or rehabilitation is necessary due to normal wear and tear on the facility and not to abuse, neglect, or vandalism;

7. A development that supports the use of an existing recreation or conservation facility owned and operated by the local unit, provided that the existing recreation or conservation facility shall be subject to the Green Acres restrictions applicable to funded parkland upon completion of the supporting facility developed with Green Acres funding; or

8. Dredging of a pond, lake, or segment of a stream or river.

7:36-10.3 Ineligible projects

(a) The following development projects are not eligible for Green Acres funding:

1. Any facility or building which does not support outdoor recreation or conservation;
2. Any facility to which public access is not provided;
3. A professional sports facility; or
4. A privately owned recreation facility.

7:36-10.4 Dredging of a pond, lake, or segment of a stream or river

(a) The dredging of a pond, lake, or segment of a stream or river is eligible for Green Acres funding if:

1. The local unit owns the pond, lake, or segment of a stream or river;
2. The local unit provides public access to the water area;
3. Green Acres has not previously funded the dredging of the pond, lake, or segment of a stream or river;
4. The local unit incorporates into the dredging project long-term corrective features including on-site sedimentation basins and other methods of maintaining the depth of the dredged area; and
5. The local unit plans its project in consultation with the appropriate State Natural Resources Conservation Service District.

(b) The local unit shall carry out all dredging and disposal of dredging spoils in conformance with all applicable State and Federal law.

7:36-10.5 Development on landfills

(a) A local unit seeking Green Acres funding for the development of an outdoor recreation and conservation facility on or adjacent to a former landfill that has been closed for at least 30 years shall submit the following with its application under N.J.A.C. 7:36-12.4:

1. Evidence that alternative sites have been considered but determined to be impractical for the proposed development project;
2. Verification that the landfill is properly closed, in compliance with the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and implementing rules and, for landfills in the Pinelands Area, the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50) adopted under the Pinelands Protection Act (N.J.S.A. 13:18A-1 et seq.); and

3. In addition to the preliminary assessment required under N.J.A.C. 7:36- 12.5(d), site-specific information, including:

- i. A site map and narrative describing the general types, locations, and depth of waste on the site;
- ii. The depth and type of cover materials;
- iii. The dates the landfill was in use; and
- iv. Detailed results of testing of soil borings, surface water, and ground water, if any.

7:36-10.6 Allowable project costs

(a) For development projects, the following costs are allowable, provided the costs are incurred in conformance with all applicable law, including the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., and the project is completed within the project period:

1. Preliminary planning and engineering costs, and permit fees necessary for the preparation of the application;
2. Construction costs;
3. The cost of preparing engineering plans and specifications, and supervision and inspection costs, not to exceed 13 percent of the Green Acres funding allocated to the construction costs;
4. Incidental costs, individually itemized, such as legal, advertising, and permit fees, provided such costs are not also included in the construction costs;
5. Costs of equipment required to make a facility operational; and
6. Costs of the preliminary assessment required under N.J.A.C. 7:36- 12.5(d).

(b) The following costs are not allowable:

1. Costs associated with an application for Green Acres funding that the Department does not approve under N.J.A.C. 7:36-12.5, or for a project which the local unit does not complete within the project period;
2. Administrative and operating costs related to the development;
3. Salaries and/or wages of employees of the local unit; and
4. Costs in excess of the amount of Green Acres funding, unless Green Acres has approved a request for supplemental funding under N.J.A.C. 7:36-14.3.

SUBCHAPTER 11. LOCAL UNIT DEVELOPMENT PROJECTS: FUNDING AWARD CATEGORIES

7:36-11.1 Funding award categories

(a) A standard development project is any development project other than an urban development project under (b) below. A standard development is funded by a low-interest (two percent) loan. The Department shall establish a maximum funding limit as provided under N.J.A.C. 7:36-10.1(a).

(b) An urban development project is the development of a project site in a qualified urban municipality under N.J.S.A. 52:27D-178. An urban development project is funded by a grant subject to the limits described in (b)1 and 2 below. If funds are available, an urban development project also will be eligible for a loan to supplement the grant. The Department shall establish a maximum funding limit as provided under N.J.A.C. 7:36-10.1(a).

1. A grant from funds made available under P.L. 1983, c.354 and P.L. 1987, c.265 shall be limited to no more than 25 percent of the cost of acquisition.

2. A grant from funds made available under P.L. 1961, c.46, P.L. 1971, c.165, P.L. 1974, c.102, and P.L. 1978, c.118, P.L. 1989, c.183, P.L. 1992, c.88, and P.L. 1995, c.204 shall be limited to no more than 50 percent of the cost of acquisition.

SUBCHAPTER 12. LOCAL UNIT DEVELOPMENT PROJECTS: APPLICATION PROCESS

7:36-12.1 Timing

(a) A local unit may submit an application for Green Acres funding at any time.

(b) At least two times each year, the Department shall rank applications in accordance with N.J.A.C. 7:36-13.1(d) and shall approve or deny applications in accordance with N.J.A.C. 7:36-12.5(a).

7:36-12.2 Preapplication procedures

(a) The Department encourages applicants to request a preapplication conference with Green Acres as early as possible, prior to application submission, to discuss project eligibility, award criteria and application requirements.

(b) The local unit shall hold a public hearing on the proposed development project. Only the proposed development project, and other proposed Green Acres projects, if any, shall be the subject matter of the public hearing.

1. The local unit shall hold the public hearing before it submits its application for Green Acres funding.

2. The local unit shall publish a notice of the public hearing in the official newspaper of the municipality in which the proposed project is located, and, if the local unit is a county, also in a newspaper of general interest and circulation, at least 15 days prior to the hearing.

(c) A local unit shall contact the Bureau of Tidelands Management within the Department to determine the

State's interest or claim in the project site before the local unit submits an application for Green Acres funding for a development involving a riparian interest.

7:36-12.3 At-risk authorization to proceed with development

(a) Within 14 days of a request, Green Acres shall authorize, in writing, a local unit to proceed with a development project at its own risk. This at-risk authorization shall not jeopardize the project's eligibility for funding if the local unit submits an application for the project under this subchapter.

(b) Green Acres is not obligated to award funding for any development project for which it provides an at-risk authorization under (a) above and for which the local unit submits an application.

(c) A local unit is not obligated to submit an application under this subchapter or to develop any project for which it receives an at-risk authorization under (a) above.

7:36-12.4 Application requirements

(a) The local unit shall submit an application containing all of the following:

1. A completed application form, provided by Green Acres, that identifies the local unit; lists the project type and location; contains a brief description of the project and an estimate of the funding amount sought; identifies the local unit's contact person for the Green Acres project; and contains the certification of the person authorized by the enabling resolution required under (a)2 below to submit the application;

2. A certified copy of the enabling resolution authorizing the submission of a Green Acres application and authorizing a person to execute the project agreement and declaration described in N.J.A.C. 7:36-14.1(a). Green Acres shall provide an example resolution;

3. A detailed estimate of the cost to develop the proposed project which indicates units and quantities of materials and is prepared by a New Jersey licensed landscape architect, architect, or engineer;

4. A Recreation and Open Space Inventory (ROSI) form as provided by Green Acres, listing each parcel of recreation and conservation land held by the local unit as of the date of the application, as well as easements and other interests designated for public open space which are under the local unit's jurisdiction. All recreation and conservation interests in lands shall be listed regardless of how they were acquired (for example, whether as a condition of a development approval, as a donation, through negotiation, or in any other manner);

i. The listing shall identify each parcel, specify whether each parcel is funded or unfunded parkland, and include acreage, and lot and block designation as shown on the tax map submitted under (a)4ii below;

ii. The local unit shall submit a tax map current as of the date of application showing each parcel of parkland listed on the ROSI, with the approximate boundaries of each such parcel clearly marked in colored ink.

iii. The chief executive officer and the planning board chairperson if the local unit is a municipality, or the chief executive officer and the parks director if the local unit is a county, shall sign the ROSI;

iv. The ROSI and the tax map required under this paragraph need not be submitted if:

(1) Green Acres has the ROSI and tax map on file because they were previously submitted by the local unit; and

(2) The local unit certifies that the previously submitted ROSI and tax map are complete and accurate as of the date of application submission.

5. A narrative description of the extent to which the project meets the award criteria under N.J.A.C. 7:36-13.1, detailing the need for and effects of the development; evidence of public and private support for the project; and conformance with the local, county, and regional master plans;

6. An environmental assessment based on an outline provided by Green Acres which describes the existing environmental features of the project site and the anticipated direct and indirect impacts of the project on those features; identifies and compares alternative sites for the project; and describes measures that will be taken to mitigate any adverse environmental impacts of the project;

7. A local tax map that indicates the lots and blocks to be developed;

8. A conceptual site plan, drawn to scale, which indicates the proposed development, existing topography, and natural features of the project site;

9. A conceptual floor plan which indicates the proposed use of all buildings to be developed;

10. A copy of an irrevocable lease for a term of at least 25 years for projects on property not owned by the local unit;

11. A street map which clearly indicates the location of the proposed development;

12. An estimate of annual operating expenses, including wages, salaries, equipment, and materials to maintain the project site;

13. An affidavit of publication of the notice of public hearing held under N.J.A.C. 7:36-12.2(b), and transcript or minutes of the hearing;

14. Photographic slides and/or prints that clearly show the existing conditions at the proposed project site; and

16. Letters of support, if any, from the general public, civic groups and agencies, municipal and county planning boards, park commissions, recreation departments, environmental commissions, or other organizations.

(b) All materials submitted as required under (a) above shall become the property of Green Acres.

(c) Green Acres shall conduct one or more site inspections to verify the statements in the application. A project site inspection shall also include an examination of the maintenance of other open space areas held by the local unit and an evaluation of the areas to be served by the development project.

7:36-12.5 Approval or denial of an application; award of funding; procedural letter

(a) Upon receipt of an application containing all the information required under N.J.A.C. 7:36-12.4, Green Acres shall determine if the project is eligible for funding in accordance with the requirements of N.J.A.C. 7:36- 10, and, based on the total priority points assigned to the project under N.J.A.C. 7:36-13.1, the Department shall approve or deny the application.

(b) If the application is approved, the Department shall notify the local unit in writing of the amount of the Green Acres funding award.

(c) If the application is denied, the Department shall notify the local unit in writing.

(d) After the notification of the funding award under (b) above, Green Acres shall send the local unit a procedural letter that directs the local unit to:

1. Submit by the deadline specified in the procedural letter one copy of construction plans for the project signed and sealed by a New Jersey licensed landscape architect, architect, or engineer;

2. Return to Green Acres, for each executed contract for professional services or construction and on a form provided by Green Acres, a certification by the local unit's attorney that the contract was let in conformance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.; and

3. Obtain a preliminary assessment of the project site and submit to Green Acres the preliminary assessment report. Upon receipt of the preliminary assessment report, Green Acres shall determine if the report contains the information required under the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, and shall notify the local unit as follows:

i. If the preliminary assessment report does not contain the required information, Green Acres shall send the local unit a deficiency letter identifying the information that must be submitted. The local unit shall submit the information by the date specified in the letter.

ii. If the preliminary assessment report contains the required information and does not identify any areas of concern, as defined under the Technical Requirements for Site Remediation, Green Acres shall send the local unit a letter acknowledging the sufficiency of the preliminary assessment report. The chief executive officer of the local unit shall certify, on a form provided by Green Acres with the sufficiency letter, that the local unit has reviewed the preliminary assessment report and determined to proceed with the development of the project site. The local unit shall return the certification to Green Acres within 30 days of the date of the sufficiency letter.

iii. If the preliminary assessment report contains the required information and identifies one or more areas of concern, as defined under the Technical Requirements for Site Remediation, Green Acres shall send a letter notifying the local unit that the areas of concern must be addressed to the Department's satisfaction before the local unit starts construction of the development project.

SUBCHAPTER 13. LOCAL UNIT DEVELOPMENT PROJECTS: AWARD CRITERIA

7:36-13.1 Project award criteria

(a) The Department shall assign priority points in accordance with (b) below to each development project after it has received the application under N.J.A.C. 7:36-12.3. The assignment of priority points reflects the degree to which a proposed project is consistent with the 1994-1999 New Jersey Open Space and Outdoor Recreation Plan Summary (available from the Green Acres Program in the Department at PO Box 412, Trenton, NJ 08625-0412; 609-984- 0500), as supplemented and/or amended; and the New Jersey State Development and Redevelopment Plan (State Plan) of June 1992, as revised and/or readopted under the State Planning Act, N.J.S.A. 52:18A-196 et seq., or the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50) adopted under the Pinelands Protection Act (N.J.S.A. 13:18A-1 et seq.), as applicable, and the findings and declarations and, as applicable, special considerations for funding awards set forth in the Green Acres Bond Acts.

(b) Priority points shall be assigned according to the following protocol:

1. A maximum of 30 points may be assigned based on the extent to which a project satisfies the Statewide and local need for recreation facilities, as follows:

- i. Based on the type of recreational activity the facility will support, one to five points;
- ii. Based on the type of center (village/hamlet, town, regional, or urban), as described in the State Plan or the Pinelands Comprehensive Management Plan, as applicable, in which the project is proposed to be located, one to four points;
- iii. Based on the availability of similar recreational facilities within the area from which the majority of users of the proposed project are expected to come, one to 21 points.

2. A maximum of 10 points may be assigned based on the extent to which public involvement and support in the planning process for a project, beyond the minimum requirement of a public hearing under N.J.A.C. 7:36-12.2, has been sought, as follows:

- i. Public support, as demonstrated through letters from the municipal and county planning boards, park agencies, recreation departments, environmental commissions, user groups such as leagues or clubs, and the general public, zero to five points;
- ii. Consistency with the State Plan or the Pinelands Comprehensive Management Plan, as applicable, the New Jersey Open Space and Outdoor Recreation Plan, and local and county land use plans, especially open space and recreation elements thereof, as demonstrated in excerpts from or specific references to such plans in the project application, zero to five points.

3. A maximum of 20 points may be assigned based on the overall quality of a project, as follows:

- i. A project that is accessible to population centers; is accessible by public transportation, walking or bicycling; and will create public access where none exists or where existing access is undeveloped or restricted, zero to four points;
- ii. A project that improves needed public access (visual and/or physical) to water, zero to six points;
- iii. A project whose design includes multiple recreation and conservation purposes, uses effective

landscaping, is compatible with surrounding land uses, provides adequate accessibility to and within the site, ensures ease of operation and maintenance, or provides opportunities for various active and passive recreational uses by diverse user groups, zero to six points;

iv. A project that is cost-effective as determined by weighing the quality of conservation or recreation opportunities provided by the project against the anticipated cost. Considerations include: cost of alternative locations and facilities, bargain sale, donation, easement or takings avoidance, and cost of future operation and maintenance, zero to four points.

4. A maximum of 10 points may be assigned to a project that incorporates or accomplishes the below-listed items, as follows:

i. Private investment and/or ecotourism potential, public/private sector venture, and/or supports municipal and county (urban complex) strategic revitalization plans and programs consistent with the State Plan or the Pinelands Comprehensive Management Plan, as applicable, one point;

ii. Waterfront development or redevelopment, one point;

iii. Trails, bike paths, or greenways, one point;

iv. Historic or archaeologic resource enhancement or preservation, one point;

v. Scheduled recreation programming, one point;

vi. Open play areas, one point;

vii. Multiple use projects (active and passive recreation opportunities), one point;

viii. Addition to a prior Green Acres-funded acquisition or development, one point;

ix. Private donation of land, equipment, labor, or cash, one point;

x. Rehabilitation or redevelopment of an existing facility, one point.

5. Five points are assigned to a project undertaken by a county or municipality that has not previously received Green Acres funding.

6. A maximum of 12 points may be assigned to a project whose design minimizes adverse impacts on the environmentally sensitive features of the site, as follows:

i. Locates facilities in already cleared areas, to minimize additional clearing of trees and vegetation, zero to four points;

ii. Locates facilities where topography and soil conditions are suitable, to minimize grading, excavation, fill, and drainage of a site, zero to four points;

iii. Retains, enhances, or establishes vegetative buffers, or incorporates other site-sensitive techniques, to minimize impacts on sensitive areas such as shellfish beds, beach/dune systems, forests, wetlands, steep slopes, endangered or threatened species habitat, and aquifer recharge areas, zero to four points.

(c) The Department shall determine the total number of priority points assigned to each project under (b) above.

(d) The Department shall rank the projects on a priority list according to the total number of priority points assigned each project, with the project assigned the greatest total number of priority points ranking first.

SUBCHAPTER 14. LOCAL UNIT DEVELOPMENT PROJECT: PROJECT AGREEMENT, BID PROCEDURES, SUPPLEMENTAL FUNDING, CONSTRUCTION RESPONSIBILITY, DISBURSEMENTS, PROJECT CLOSEOUT, LOAN REPAYMENT, ACCOUNTING AND RECORDKEEPING REQUIREMENTS

7:36-14.1 Project agreement

(a) Green Acres shall send the project agreement to the local unit. The local unit shall ensure that the project agreement and declaration are approved and signed by the local unit's attorney, and executed by the person authorized under the resolution described at N.J.A.C. 7:36-12.4(a). The project agreement shall contain:

1. A description of the project facilities to be developed;
2. The declaration, which contains the Recreation and Open Space Inventory (ROSI) required under N.J.A.C. 7:36-12.4(a) as adjusted to correct inaccuracies, if any, discovered during Green Acres' review of the funding application;
3. The estimated cost of the development project;
4. Special conditions, if any;
5. The requirements for recordkeeping, project administration, and loan repayment; and
6. Other terms and conditions, including a statement of the remedies described at (f) through (i) below and a statement of the requirements for maintenance, use, development, and disposal or diversion of parkland as described at N.J.A.C. 7:36-20.

(b) When the local unit returns the executed project agreement to Green Acres, it shall also submit verification that a bond ordinance, supplemental debt statement, and revised capital budget have been approved by the Department of Community Affairs.

(c) Upon receipt of the items listed at (b) above, the Department shall establish an account from which Green Acres shall disburse the loan or grant.

(d) Green Acres shall send the declaration to the local unit within 30 days of transferring to the local unit the first disbursement of Green Acres funds. The local unit shall have the declaration recorded by the county clerk or registrar and returned to Green Acres.

(e) Green Acres and the local unit shall execute an amendment to the project agreement to modify the

project scope if the local unit demonstrates that the modified project meets the project eligibility requirements at N.J.A.C. 7:36-10; to extend the project period established in the project agreement if the local unit demonstrates that it is making a good faith effort to complete the project in an expeditious manner; or to reflect any supplemental funding provided under N.J.A.C. 7:36-14.3.

(f) In addition to any other rights or remedies available to the Department under law, if the local unit does not comply with any of the requirements of the project agreement, this chapter, or the Green Acres laws, or if the local unit makes any material misrepresentation in the project application and/or the documentation submitted in support of the application, the Department may take any of the following actions:

1. Issue a written notice of noncompliance directing the local unit to take and complete corrective action within 30 days of receipt of the notice.

- i. If the local unit does not take corrective action, or if the corrective action taken is not adequate in the judgment of the Department, then the Department may take any of the actions described at (f)2 through 5 and (g) below;

2. Withhold a grant or loan disbursement or portion thereof;

3. Order suspension of work on the project for a period of not more than 45 days after the date of the stop work order, unless the Department and the local unit agree to an extension of that period;

- i. A stop work order shall contain the reasons for the issuance of the stop work order, a clear description of the work to be suspended, instructions as to the issuance of further orders by the local unit for materials or services, and other suggestions for minimizing costs;

- ii. Upon receipt of the stop work order, the local unit shall immediately comply with the terms of the order and take all reasonable steps to minimize the incurring of costs allocable to the work covered by the order;

- iii. The Department shall, within the period of the stop work order or any extension of it, either rescind the stop work order, terminate the work covered by the order, or authorize the resumption of work.

- iv. If the Department rescinds a stop work order or if the period of a stop work order or an extension of it expires, the local unit shall promptly resume the suspended work. The Department shall, as necessary, make an equitable adjustment to the project period;

4. Terminate the project agreement; and/or

5. Demand immediate repayment of all Green Acres funds that the local unit has received.

(g) If the local unit fails to comply with any of the terms of the project agreement, this chapter, or the Green Acres laws, the Department may initiate suit for injunctive relief or to seek specific enforcement, without posting bond, it being acknowledged that any actual or threatened failure to comply will cause irreparable harm to the State and that money damages will not provide an adequate remedy.

(h) If the Department incurs legal or other expenses, including its own personnel expenses, for the collection of payments due or in the enforcement or performance of any of the local unit's obligations under the project agreement, this chapter, or the Green Acres laws, the local unit shall pay these expenses on

demand by the Department.

(i) The Department is not required to mitigate any damages to the local unit resulting from the local unit's noncompliance with the terms of the project agreement, this chapter or the Green Acres laws.

7:36-14.2 Bid procedures

(a) Upon receipt of a letter from Green Acres verifying that the construction plans submitted under N.J.A.C. 7:36-12.5(d) are consistent with the approved project scope, the local unit may solicit bids on the project contracts, if required under the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.

(b) The local unit shall include the following statement in each advertisement and invitation to bid:

"Please be advised that State funds through the Green Acres Bond Acts are being utilized in this project. Under N.J.A.C. 7:1-5, vendors currently suspended, debarred, or disqualified are excluded from participation on this project."

(c) All bid specifications and contracts shall require that all facilities must be constructed in accordance with all applicable State and local construction codes.

7:36-14.3 Supplemental funding

(a) A local unit may request, in writing, supplemental funding if:

1. The bid received or the negotiated contract amount for a project exceeds the loan or grant amount awarded under N.J.A.C. 7:36-12.5, provided the local unit has solicited bids on the project at least two times; or

2. The local unit incurs contract cost overruns and has submitted a copy of the change order(s) for the cost overruns under N.J.A.C. 7:36-14.4(c).

(b) Provided sufficient funds are available, Green Acres shall increase the amount of funding for a project in response to a request submitted under (a) above.

(c) Green Acres and the local unit shall execute an amendment to the project agreement in accordance with N.J.A.C. 7:36-14.1 to reflect any supplemental funding provided under this section.

7:36-14.4 Construction requirements; site inspections

(a) Green Acres shall periodically inspect the project to ensure compliance with project agreement under N.J.A.C. 7:36-14.1.

(b) The local unit is responsible for supervising the construction of the project and for ensuring that all construction contract specifications are met.

(c) The local unit shall submit to Green Acres a copy of each change order processed in accordance with

the local public contracts rules at N.J.A.C. 5:34. The copy shall be submitted before the local unit undertakes the work covered by the change order so that Green Acres can determine whether the costs are allowable under the project agreement.

(d) The local unit shall erect and maintain for the duration of the project a construction sign that meets Green Acres' specifications for size, content and design.

7:36-14.5 Disbursement of loan or grant

(a) Green Acres shall disburse the loan or grant in advance of the local unit's incurring allowable costs or as reimbursement of accrued allowable costs when either:

1. The amount requested in one or more consecutive calendar months totals \$10,000 or more; or
2. Quarterly, if the amounts requested over the course of three consecutive calendar months total less than \$10,000.

(b) For each request for payment, the local unit shall submit a Green Trust Development Project Payment form, which Green Acres provides with the procedural letter under N.J.A.C. 7:36-12.5(d), with the following items completed:

1. The project name, name of local unit, and county;
2. An itemized statement of the costs incurred or accrued; and
3. A certification by the local unit's chief financial officer that the information entered on the payment request form is accurate and that the local unit is maintaining an accurate record of accounts for the project, including cancelled checks and vouchers.

(c) Upon receipt of a request for payment under (b) above, Green Acres shall send to the local unit a payment invoice for the loan or grant amount. The local unit's chief executive officer, chief financial officer, or municipal clerk shall verify, sign, and return the invoice to Green Acres for processing.

(d) The local unit shall establish a separate bank account for the purpose of receiving Green Acres loan disbursements for the project. The State shall transmit each loan disbursement directly into such account, which will be subject to audit by the State. If a local unit has undertaken more than one Green Acres funded project, it may establish a single bank account to receive all loan payments for the projects.

(e) The State shall mail each grant disbursement to the local unit in the form of a check. The local unit shall not sign over the check to a contractor or any other person but shall deposit the check into the local unit's bank account.

(f) The local unit shall make payments to the project contractor(s) within 30 days of the date Green Acres transmits or mails a loan or grant disbursement. If the local unit does not pay out a given disbursement to the project contractors within 30 days, the local unit shall immediately inform Green Acres. A local unit that receives a disbursement and does not pay it out within 30 days is subject to the following conditions:

1. As of the 30th day after the disbursement is made, the local unit shall pay to the State interest accrued

on the amount of the disbursement from that day up to the 90th day after the disbursement. The interest rate shall be the judgment interest rate established under the New Jersey Court Rules Governing Civil Practice at 4:42-11(a)(ii) in effect on the 30th day.

2. As of the 90th day after the disbursement is made, the local unit shall repay to the State the amount of the disbursement plus accrued interest from 30 days after disbursement to the date of repayment. The interest rate shall be the judgment interest rate established under the New Jersey Court Rules Governing Civil Practice at 4:42-11(a)(ii) in effect on the 90th day.

(g) A local unit that has repaid the disbursement plus accrued interest under (f)2 above may, upon payment of the amount of the repaid disbursement to the project contractors, submit a request for reimbursement under (b) above.

(h) The local unit may unilaterally withdraw the project at any time before it receives Green Acres funds. The local unit shall not terminate the project agreement after it receives any Green Acres funds without the written consent of Green Acres.

(i) If the local unit terminates the project agreement under (h) above, the local unit is responsible for any costs of the development incurred as of the time of termination. The local unit shall also repay, with interest at the judgment interest rate established under the New Jersey Court Rules Governing Civil Practice at 4:42-11(a)(ii) in effect at the time of termination, any disbursements which Green Acres made to the local unit for the project.

7:36-14.6 Project closeout

(a) The local unit shall notify Green Acres when the development project is complete.

(b) Upon receipt of the notification under (a) above, Green Acres shall send to the local unit a project closeout letter that directs the local unit to submit to Green Acres a copy of each of the following:

1. Post-construction certification, on a form provided by Green Acres with the closeout letter, by a New Jersey licensed landscape architect, architect, or engineer that the project has been completed substantially in accordance with the construction plans submitted under N.J.A.C. 7:36-12.(d);

2. A record drawing showing the project as built; and

3. A summary of all of the payments that the local unit made under the project agreement, signed by the local unit's chief financial officer. The summary shall include, for each payment, the payee name and check date, number, and amount.

(c) Green Acres shall conduct a final site inspection within 30 days of its receipt of the items listed under (b) above.

7:36-14.7 Terms of loan repayment

(a) A local unit shall repay the loan amount in semi-annual installments over a period of not more than 20 years from the date of the initial disbursement to the date of the final repayment. The local unit may

prepay the loan in whole or in part at any time without penalty. An accelerated repayment schedule may be established under the project agreement executed under N.J.A.C. 7:36- 14.1.

(b) Interest shall accrue on the outstanding loan principal at a rate not to exceed two percent per year. Interest accrued against each disbursement shall be paid to the Treasurer of the State three months after the date of the final disbursement.

(c) The first repayment of principal shall be paid to the Treasurer of the State nine months after the final disbursement, two years after the date of the first disbursement, or the date established in the project agreement, whichever is earliest.

(d) The local unit shall allocate a portion of its budget to meet the annual debt service on the loan.

(e) The Department shall assess a late fee when the local unit fails to make any repayment within 30 days of the scheduled payment due date, as follows:

1. When a payment is 30 to 59 days past due, five percent of the payment amount due.
2. When a payment is 60 to 89 days past due, 10 percent of the payment amount due.
3. When a payment is 90 or more days past due, 15 percent of the payment amount due.

(f) A local unit that fails to make payment within 90 days of the repayment due date shall be in default of the project agreement. Upon default:

1. All outstanding principal, interest, and late fees are payable immediately; and
2. Interest accrues at a rate of two percent per year on the outstanding principal, interest, and late fee, calculated from the repayment due date.

7:36-14.8 Accounting and recordkeeping

(a) The local unit shall maintain and make available to the Department for inspection on request all financial documents and records related to the project for three years in accordance with (d) below.

(b) The local unit, its contractors, and subcontractors shall employ generally accepted accounting procedures that adequately identify the costs associated with the Green Acres loan or grant.

(c) The local unit shall maintain separate records for each project including the amount, receipt, and disposition of all funding received for the project, including Green Acres loans and grants, and contributions, gifts, or donations from any other sources.

(d) The local unit shall provide a duly authorized representative of the Department access to all records, books, documents, and papers pertaining to the project agreement and/or the project for audit, examination, excerpt, and transcript purposes. Such records shall be maintained and access shall be provided during performance of the project and for three years after the latter date of either final repayment or audit resolution. The local unit shall include this requirement in all project-related contracts.

(e) The local unit shall conduct annual audits and submit audit reports in conformance with the Single Audit Act of 1984, P.L. 98-502 and the Single Audit Act Amendments of 1996, P.L. 104-156, Federal OMB Circular A-133: "Audits of State and Local Governments," incorporated herein by reference, and State OMB Circular 98-07: "Single Audit Policy," incorporated herein by reference.

1. Audit reports shall address the local unit's compliance and all specific instances of noncompliance with the material terms and conditions of the project agreement and applicable laws and regulations.

2. Audit reports shall contain an itemized schedule of all project-related financial assistance received by the local unit identifying: grantor agency, program title, State account number, and total disbursement.

(f) The Department shall adjust the local unit's final payment, if necessary, based on the results of the annual audit.

SUBCHAPTER 15. NONPROFIT ACQUISITION PROJECTS: PROJECT ELIGIBILITY, CONDITIONS, AND LIMITATIONS

7:36-15.1 General provisions

(a) Green Acres may provide a matching grant to a nonprofit for the acquisition of land for recreation and conservation purposes to a maximum of 50 percent of the cost of acquisition.

(b) The Department shall establish a maximum funding limit per project or per applicant based on available funds and project priorities established under N.J.A.C. 7:36-17.1. There is no minimum or maximum grant request amount. Any Green Acres funding award is subject to legislative appropriation.

(c) A nonprofit may use as its matching share of the cost of acquisition its own funds or a donation of all or a portion of the eligible land cost of the project site.

(d) A nonprofit shall not use as its matching share of the cost of acquisition either:

1. The value of lands that the nonprofit owns at the time of application for Green Acres funding, unless the nonprofit has received an at-risk authorization to acquire that land under N.J.A.C. 7:36-16.3;

2. The value of lands that were acquired with funds obtained under Green Acres or any other State grant or loan program for the purpose of acquiring land; or

3. Funds obtained under Green Acres or any other State grant or loan program for the purpose of acquiring land.

(e) If the value of the donated land that the nonprofit uses as its matching share exceeds 50 percent of the cost of acquisition, Green Acres shall reduce the amount of the funding it provides by the amount by which the donation exceeds 50 percent of the cost of acquisition.

(g) The nonprofit is responsible for meeting all requirements of all Green Acres laws, other State statutes, Federal statutes, and local ordinances, as applicable.

17:36-15.2 Eligible projects

(a) Lands for recreation and conservation purposes, as defined at N.J.A.C. 7:36-2.1, are eligible for acquisition with Green Acres funding. Acquisition projects may include, for example:

1. Ocean, bay and/or river waterfront, or a lake, pond, beach or stream that provides opportunity for physical and visual public access, swimming, water sports, fishing and/or boating;
2. A natural area such as a wildlife preserve, forest and/or wetland that provides opportunity for conservation, nature observation, camping and/or hiking;
3. An historic site; or
4. Open space suitable for playgrounds, athletic fields, and active and passive recreation.

7:36-15.3 Ineligible projects

(a) The following acquisition projects are not eligible for Green Acres funding:

1. Any site to be purchased in fee to which public access is not provided, unless the Commissioner determines that public accessibility would be detrimental to the land or to any natural resources associated with the land;
2. Any perpetual conservation restriction or historic preservation restriction not consistent with N.J.A.C. 7:36-15.7;
3. Any site that will remain more than 50 percent covered by buildings, except for the acquisition of historic structures as provided in certain of the Green Acres Bond Acts;
4. Any nonhistoric building purchased exclusively for indoor recreation; or
5. Any site that is, or is intended to be, used as a public road right-of-way.

7:36-15.4 Acquisition of structures

(a) Improved properties and structures which the nonprofit will maintain and operate for recreation and conservation purposes to support the use of an outdoor recreation facility may be acquired.

(b) When a structure acquired with Green Acres funds is demolished to create open space, the cost of demolition may be eligible for funding as part of the acquisition project, under N.J.A.C. 7:36-15.9(a)5.

7:36-15.5 Acquisition of waterfront land

(a) A nonprofit shall contact the Bureau of Tidelands Management within the Department to determine the State's interest or claim in the project site before the nonprofit submits an application for Green Acres

funding for an acquisition involving a riparian interest.

(b) An interest in State-owned tidelands may be acquired from the Tidelands Resource Council, established under N.J.S.A. 13:1B-10, with Green Acres funds or, where the State previously conveyed its ownership of certain tidelands, those tidelands may be acquired from private owners.

7:36-15.6 Acquisition of agricultural lands

(a) A nonprofit may apply for Green Acres funding to acquire farmland when the property is on the market, the property is the subject of a pending or approved subdivision or site plan application for non-farm purposes, the property is under contract of sale for non-farm purposes, or the property is integral to the project.

(b) If farmland is located within an Agricultural Development Area established under the 1983 Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., at the time of application for Green Acres funding, the nonprofit shall demonstrate that the owner of the farmland has not applied to sell the farmland or a development easement to the State or county in accordance with that Act, or that the owner has applied to sell the farmland or a development easement and the application was not approved.

7:36-15.7 Acquisition of conservation restrictions or historic preservation restrictions

(a) A nonprofit may acquire a perpetual conservation restriction, provided the restriction:

1. Provides for public access; or
2. Is contiguous and beneficial to other land in the project site which provides public access.

(b) A nonprofit may acquire a perpetual historic preservation restriction if the restriction is on a landscape or structure that is listed or eligible for listing on the New Jersey or National Register of Historic Places and if the restriction:

1. Provides for public access; or
2. Is contiguous and beneficial to other land in the project site which provides public access.

7:36-15.8 Donations toward the cost of acquisition

(a) If an acquisition of a project site is to be funded in part by a donation, the nonprofit shall submit to Green Acres, prior to the disbursement of grant funds under N.J.A.C. 7:36-19.3, a letter from the donor, following an example provided by Green Acres, which expresses the donor's intent to donate cash or a portion of the eligible land cost of the project site.

(b) The nonprofit shall notify Green Acres as soon as a potential donor makes its interest in donation known to the nonprofit.

(c) Green Acres shall not treat as a donation any donation accepted prior to approval of an application for

Green Acres funding under N.J.A.C. 7:36-16.5 unless the nonprofit has obtained an at-risk authorization under N.J.A.C. 7:36-16.3.

(d) Green Acres shall not treat as a donation any donation of land which is not part of the approved project site.

(e) Green Acres shall not treat as a donation the reduction in the cost of acquisition resulting from negotiation between the nonprofit and the property owner, unless provided with a donation letter under N.J.A.C. 7:36-19.3(c).

7:36-15.9 Allowable project costs

(a) For acquisition projects, the following costs are allowable, provided the costs are incurred in conformance with all applicable law:

1. Costs which the nonprofit incurs to acquire title or permanent interest in the project site based on the approved Green Acres grant;
2. Costs which the nonprofit incurs for any appraisal obtained in accordance with N.J.A.C. 7:36-16.6;
3. Survey costs which the nonprofit incurs for the field determination of acquired acreage and wetlands;
4. Costs of the preliminary assessment required under N.J.A.C. 7:36- 16.5(d); and
5. Building demolition costs to a maximum of 10 percent of the eligible land cost or \$100,000, whichever is less.

(b) The following costs are not allowable:

1. Administrative and operating costs related to the acquisition;
2. Salaries and/or wages of employees of the nonprofit;
3. Real property taxes; and
4. Costs associated with an application for Green Acres funding that the Department does not approve under N.J.A.C. 7:36-16.5.

SUBCHAPTER 16. NONPROFIT ACQUISITION PROJECTS: APPLICATION PROCESS

7:36-16.1 Timing

A nonprofit may submit an application for Green Acres funding within 90 days after the date of publication of a notice of availability of grant funds in the New Jersey Register.

7:36-16.2 Preapplication procedures

(a) The Department encourages nonprofits to request a preapplication conference with Green Acres as early as possible, prior to application submission, to discuss project eligibility, award criteria and application requirements.

(b) A nonprofit shall not enter into a purchase or option contract unless it has first received an at-risk authorization under N.J.A.C. 7:36-16.3 or accepted the eligible land cost under N.J.A.C. 7:36-18.2.

7:36-16.3 At-risk authorization to proceed with acquisition

(a) Within 14 days of a request, Green Acres shall authorize, in writing, a nonprofit to proceed with the acquisition of a project site at its own risk. This at-risk authorization shall not jeopardize the project's eligibility for funding if the nonprofit submits an application for the project under this subchapter.

(b) Green Acres is not obligated to award funding for the acquisition of any project site for which it provides an at-risk authorization under (a) above and for which the nonprofit submits an application.

(c) A nonprofit is not obligated to submit an application under this subchapter or to acquire any project site for which it receives an at-risk authorization under (a) above.

7:36-16.4 Application requirements

(a) A nonprofit shall submit an application containing all of the following:

1. A completed application form, provided by Green Acres, that identifies the nonprofit; lists the project location; contains a brief description of the project and an estimate of the funding request amount; identifies the nonprofit's contact person for the Green Acres project; and contains the certification of the person authorized by the enabling resolution required under (a)2 below to submit the application.

i. The nonprofit shall base the estimated funding request amount on the present market value or anticipated purchase price of the project site and not solely on the tax assessed value of the project site. The nonprofit shall include estimated survey, appraisal, and preliminary assessment costs, and estimated costs of building demolition, if applicable;

2. A certified copy of the enabling resolution, following an example provided by Green Acres, authorizing the submission of a Green Acres application and authorizing a person to execute the project agreement described in N.J.A.C. 7:36-19.1(a);

3. A narrative description of the extent to which the project meets the award criteria under N.J.A.C. 7:36-17.1;

4. A project reference map with dimensions of at least 22 inches by 36 inches and containing the following information:

i. The project name and location;

ii. The parcel number as assigned by the nonprofit to each adjacent group of lots with one owner. Lots under a single ownership that are physically separated must be assigned individual parcel numbers;

iii. The lot and block numbers and municipality(ies) in which the proposed project site is located;

iv. The owner(s) of record as of the date of application submission;

v. The area of project site, in acreage or square feet;

vi. The dimensions of each lot marked on each perimeter boundary;

vii. Improvements shown in approximate location on lots;

viii. If the acquisition of part of a lot is proposed, both the area of the part to be acquired and the area of the remainder must be denoted;

ix. The name and block and lot identification of adjacent landowner(s);

x. The scale of map proportional to the size of the project site so as to allow an appraiser to prepare an accurate appraisal;

xi. An arrow indicating north;

xii. The location and area of all known existing easements, road rights-of-way, dune and beach areas, and similar features, with source of such information identified;

xiii. The location and area of tidelands, as determined from New Jersey Tidelands claims maps, conveyance overlays, and atlas sheets;

xiv. The location and area of floodplain, as shown on the New Jersey State Flood Hazard Area maps prepared under the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.;

xv. The location and area of coastal wetlands, as shown on maps prepared by the Department under the Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq.; and

xvi. The location and area of freshwater wetlands, as determined from:

(1) A wetlands delineation, if one exists, verified by the Department's Land Use Regulation Program or its successor;

(2) Freshwater wetlands maps prepared by the Department under the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq., if they exist; or

(3) If the documents listed under (a)4xvi(1) and (2) above do not exist, U.S. Fish and Wildlife Service National Wetlands Inventory (NWI) maps, in conjunction with County Soil Surveys published by the U.S. Department of Agriculture;

5. A street map which clearly indicates the location of the project site;

6. An estimate of annual operating expenses including wages, salaries, equipment and materials to maintain the project site;

7. A copy of the affidavit of publication of the newspaper notice required under (c) below;

8. Photographic slides and/or prints that clearly show the existing conditions at the proposed project site; and

9. A local tax map that indicates the lots and blocks to be acquired.

(b) All materials submitted under (a) above shall become the property of Green Acres.

(c) Within 90 days of submitting the application to Green Acres, the nonprofit shall publish a notice in the official newspaper of the municipality in which the proposed project is located that the application for Green Acres funding has been submitted and is available for review at the Green Acres Program offices. The nonprofit shall also send the notice to the governing body of the municipality or municipalities in which the proposed project or projects are located.

(d) Green Acres shall conduct one or more project site inspections to verify the statements in the application.

(e) A nonprofit that has submitted an application shall monitor and immediately notify Green Acres of any pending or proposed actions or events affecting the project site such as, but not limited to, any applications made for stream encroachment, Coastal Area Facility Review Act (CAFRA), waterfront development, sanitary landfill, or other Department permits, any application made to the Pinelands Commission under the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50) for projects in the Pinelands Area, local building permits and subdivision proposals related to the proposed project site. The nonprofit shall also immediately notify Green Acres of any fires, demolitions, floods, natural disasters, donations, easements, leases, survey discrepancies, or changes in ownership of the project site.

7:36-16.5 Approval or denial of application; award of funding; procedural letter

(a) Upon receipt of an application containing all the information required under N.J.A.C. 7:36-16.4, Green Acres shall determine if the project is eligible for funding in accordance with the requirements of N.J.A.C. 7:36- 15, and, based on the total priority points assigned to the project under N.J.A.C. 7:36-17.1, the Department shall approve or deny the application.

(b) If the application is approved, the Department shall notify the nonprofit in writing of the amount of the Green Acres funding award.

(c) If the application is denied, the Department shall notify the nonprofit in writing.

(d) After the notification of the funding award under (b) above, Green Acres shall send the nonprofit a procedural letter that directs the nonprofit to:

1. Obtain and submit to Green Acres the appraisals required under N.J.A.C. 7:36-16.6; and

2. Obtain a preliminary assessment of the project site and submit to Green Acres the preliminary

assessment report. Upon receipt of the preliminary assessment report, Green Acres shall determine if the report contains the information required under the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, and shall notify the nonprofit as follows:

i. If the preliminary assessment report does not contain the required information, Green Acres shall send the nonprofit a deficiency letter identifying the information that must be submitted. The nonprofit shall submit the information by the date specified in the letter.

ii. If the preliminary assessment report contains the required information and does not identify any areas of concern, as defined under the Technical Requirements for Site Remediation, Green Acres shall send the nonprofit a letter acknowledging the sufficiency of the preliminary assessment report. The chief executive officer of the nonprofit shall certify, on a form provided by Green Acres with the sufficiency letter, that the nonprofit has reviewed the preliminary assessment report and determined to proceed with the acquisition of the project site. The nonprofit shall return the certification to Green Acres within 30 days of the date of the sufficiency letter.

iii. If the preliminary assessment report contains the required information and identifies one or more areas of concern, as defined under the Technical Requirements for Site Remediation, Green Acres shall send a letter notifying the nonprofit that the areas of concern must be addressed to the Department's satisfaction before the nonprofit acquires the project site.

7:36-16.6 Appraisal procedures

(a) For a parcel with an estimated land value of less than \$250,000, a nonprofit shall obtain at least one professionally and independently prepared appraisal, or, at its option, it may obtain two. For a parcel with an estimated land value of \$250,000 or more, the nonprofit shall obtain two professionally and independently prepared appraisals.

(b) The nonprofit shall obtain each appraisal required under (a) above as follows:

1. The nonprofit shall request a meeting with Green Acres staff to discuss the selection and hiring of an appraiser and the scope of work;

2. The nonprofit shall hire a State-certified appraiser who Green Acres has approved based on such appraiser's work experience, professional certification, and sample work product;

3. All appraisals shall be prepared in the format supplied to the nonprofit by Green Acres;

4. The nonprofit shall request a meeting with Green Acres staff and the appraiser(s) to discuss the scope of work and to visit the project site, prior to starting the appraisal(s); and

5. The nonprofit shall submit to Green Acres one copy of each completed appraisal.

(c) Green Acres shall require a nonprofit to obtain a report by an engineer, architect, or other specialist to supplement the appraisal of the project site if Green Acres determines that the unique nature of the project site necessitates a cost approach to valuation.

(d) The nonprofit shall immediately submit to Green Acres, in writing, any information it has which could

affect the appraised value of the project site.

SUBCHAPTER 17. NONPROFIT ACQUISITION PROJECTS: AWARD CRITERIA

7:36-17.1 Project award criteria

(a) The Department shall assign priority points in accordance with (b) below to each acquisition project after it has received the application under N.J.A.C. 7:36-16.4. The assignment of priority points reflects the degree to which a proposed project is consistent with the 1994-1999 New Jersey Open Space and Outdoor Recreation Plan Summary (available from the Green Acres Program in the Department at PO Box 412, Trenton, NJ 08625-0412; 609-984- 0500), as supplemented and/or amended; and the New Jersey State Development and Redevelopment Plan (State Plan) of June 1992, as revised and/or readopted under the State Planning Act, N.J.S.A. 52:18A-196 et seq., or the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50) adopted under the Pinelands Protection Act (N.J.S.A. 13:18A-1 et seq.), as applicable, and the findings and declarations and, as applicable, special considerations for funding awards set forth in the Green Acres Bond Acts.

(b) Priority points shall be assigned according to the following protocol:

1. A maximum of 35 points may be assigned based on the extent to which a project satisfies the need for open space for recreation in a particular county, as follows:

i. Based on the intensity of need for open space for recreation, one to five points. Green Acres calculates the need for recreation open space in each county in New Jersey by multiplying the acres-per-population standard for municipally owned parkland (eight acres of municipally owned parkland held for recreation per thousand population) by the county population (based on the U.S. Census data), and multiplying the acres-per-population standard for county owned parkland (12 acres of county-owned parkland held for recreation per thousand population) by the county population, and then subtracting from those products the existing acreage in the county of municipally and county owned parkland, respectively.

ii. Based on the deficit in open space for recreation under the balanced land use guidelines for municipalities and counties, one to five points. The balanced land use guidelines recognize competing uses (for example, housing versus ballfields) for developable land and are expressed as goals. For a municipality, the balanced land use goal is that a minimum of three percent of the developed and developable area of the municipality should be held as open space for recreation. For a county, the balanced land use goal is that a minimum of seven percent of the developed and developable area of the county should be held as open space for recreation.

iii. Based on the availability of similar open space for recreation within the area from which the majority of users of the proposed project are expected to come, one to 25 points.

2. A maximum of 30 points may be assigned based on the extent to which a project meets environmental protection goals, as follows:

i. A project that contains open space and/or conservation areas of sufficient size and located so as to:

(1) Protect wildlife habitat, zero to three points;

(2) Enhance or preserve Critical Environmental Sites identified in the State Plan or the Pinelands Comprehensive Management Plan, as applicable, and/or other unique natural areas or land types (for example, steep slope, dune, beach, wetland, forest land), zero to three points;

(3) Provide additions to or linkages between existing public recreation and/or open space areas, zero to three points;

(4) Support regional open space and/or conservation initiatives (for example, landscape ecology, biodiversity, wildlife corridors, shore protection, greenways), zero to three points;

(5) Protect documented threatened and/or endangered species habitat, zero to three points.

ii. A project that contains coastal and watershed areas, including forests, shorelines, and stream corridors of sufficient size and located so as to:

(1) Establish an integral link in an existing or planned local, regional or statewide conservation initiative, or a component of a Wild and Scenic Rivers system under the National Wild and Scenic Rivers Act, 16 U.S.C. §§ 1271-1287 and/or the New Jersey Wild and Scenic Rivers Act, N.J.S.A. 13:8-45 et seq., zero to three points;

(2) Facilitate water quality protection efforts, zero to three points;

(3) Provide significant natural flood storage, zero to three points;

(4) Act as a physical or visual buffer between a significant natural resource or feature and development, or provide visual or physical access to a waterbody, zero to three points;

(5) Protect headwaters, tributaries, or shorelines, zero to three points.

3. A maximum of 15 points may be assigned based on the extent to which a project meets historic resource preservation goals, as follows:

i. A project on, containing, or adjacent to a site included on or eligible for inclusion on the New Jersey Register of Historic Places under N.J.S.A. 13:1B-15.128 et seq. and/or the National Register of Historic Places under 16 U.S.C. §§470 et seq., or a Critical Historic Site identified in the State Plan or the Pinelands Comprehensive Management Plan, as applicable, zero to three points;

ii. A project that provides additions to or linkages between existing public recreation and/or open space areas, zero to three points;

iii. A project that is a component of an historic district designated as such under N.J.S.A. 13:1B-15.128 et seq., zero to three points;

iv. A project that is part of an ongoing historic preservation or restoration project or historic study or investigation, zero to three points;

v. A project with historic integrity of location, design, setting, materials, workmanship, feeling, and association, zero to three points.

4. A maximum of 10 points may be assigned based on the extent to which public involvement and support in the planning process for a project has been sought, as follows:

i. Public support, as demonstrated through letters from the municipal and county planning boards, park agencies, recreation departments, environmental commissions, user groups such as leagues or clubs, and the general public, zero to five points;

ii. Consistency with the State Plan or the Pinelands Comprehensive Management Plan, as applicable, the New Jersey Open Space and Outdoor Recreation Plan, and local and county land use plans, especially open space and recreation elements thereof, as demonstrated in excerpts from or specific references to such plans in the project application, zero to six points.

5. A maximum of 20 points may be assigned based on the overall quality of a project, as follows:

i. A project that is accessible to population centers, is accessible by public transportation, or by walking or bicycling, zero to four points;

ii. A project that has recreation development potential, because it is suitable for major outdoor recreation facility development, is suitable for the use and/or development of appropriate water dependent recreation activities or facilities, or provides environmental and/or historic interpretive opportunities, zero to eight points;

iii. A project that improves needed public access (visual and/or physical) to water, zero to six points;

iv. A project that is cost-effective as determined by weighing the quality of conservation or recreation opportunities provided by the project against the anticipated cost. Considerations include: cost of alternative locations and facilities, bargain sale, donation, easement or takings avoidance, and cost of future operation and maintenance, zero to four points.

6. A maximum of nine points may be assigned to a project that incorporates or accomplishes the below-listed items, as follows:

i. Private investment and/or ecotourism potential, public/private sector venture, and/or supports municipal and county (urban complex) strategic revitalization plans and programs consistent with the State Plan or the Pinelands Comprehensive Management Plan, as applicable, one point;

ii. Waterfront development or redevelopment, one point;

iii. Trails, bike paths, or greenways, one point;

iv. Historic or archaeologic resource enhancement or preservation, one point;

v. Scheduled recreation programming, one point;

vi. Open play areas, one point;

vii. Multiple use projects (active and passive recreation opportunities), one point;

viii. Addition to a prior Green Acres-funded acquisition or development, one point;

ix. Private donation of land, equipment, labor, or cash, one point.

7. A maximum of five points may be assigned if a project is funded by a donation of more than 50 percent of the eligible land cost, with one point assigned for each 10 percent of donated value over 50 percent.

(c) The Department shall determine the total number of priority points assigned to each project under (b) above.

(d) The Department shall rank the projects on a priority list according to the total number of priority points assigned each project, with the project assigned the greatest total number of priority points ranking first.

SUBCHAPTER 18. NONPROFIT ACQUISITION PROJECTS: DETERMINATION OF ELIGIBLE LAND COST

7:36-18.1 Determination of eligible land cost

(a) Green Acres shall determine the sufficiency of any appraisals submitted under N.J.A.C. 7:36-16.6 and shall notify the nonprofit in writing of any deficiencies that prevent the determination of eligible land cost.

(b) Green Acres shall determine the eligible land cost for each parcel within a project site as follows:

1. If only one appraisal has been obtained under N.J.A.C. 7:36-16.6 on a parcel, the eligible land cost shall be the certified market value.

2. If two appraisals have been obtained under N.J.A.C. 7:36-16.6 on a parcel, and the difference between the two appraisal values is greater than 10 percent of the higher appraisal value, the eligible land cost shall be the certified market value.

3. If two appraisals have been obtained under N.J.A.C. 7:36-16.6 on a parcel, and the difference between the two appraisal values is 10 percent of the higher appraisal value or less, the eligible land cost shall be the average of the appraisal values. The nonprofit may, however, request that Green Acres provide a certified market value, in which case the eligible land cost shall be that certified market value.

(c) In order to certify the market value of a parcel, Green Acres shall review the appraisal(s) obtained under N.J.A.C. 7:36-16.6, inspect the project site, examine the comparable sales used by the appraiser(s), and review of all other data pertinent to the market value as estimated by the appraiser(s).

(d) Green Acres shall send to the nonprofit a statement of the eligible land cost for review and acceptance in accordance with N.J.A.C. 7:36-18.2.

(e) If the survey of a parcel submitted with an advance payment or reimbursement request under N.J.A.C. 7:36-19.3(c) shows an acreage total different from the acreage total shown in the statement of eligible land cost, Green Acres shall notify the nonprofit or appraiser(s), request an adjusted market value determination, if needed, and revise accordingly the eligible land cost to reflect the actual acreage of the parcel.

7:36-18.2 Acceptance of eligible land cost

(a) Within 60 days after the nonprofit receives from Green Acres the statement of eligible land cost under N.J.A.C. 7:36-18.1, the nonprofit shall submit to Green Acres a letter stating that the nonprofit has reviewed and accepts the eligible land cost of the parcel and that the nonprofit has the ability and intention to finance the cost of the parcel, should such cost exceed the amount of Green Acres funding.

(b) Receipt by Green Acres of the letter submitted under (a) above constitutes the nonprofit's acceptance of the eligible land cost.

7:36-18.3 Supplemental funding

(a) A nonprofit may request, in writing, supplemental funding for a project if it has accepted the eligible land cost under N.J.A.C. 7:36-18.2 and if the eligible land cost exceeds the grant amount awarded under N.J.A.C. 7:36-16.5.

(b) Provided sufficient funds are available, Green Acres shall increase the amount of funding for a project in response to a request submitted under (a) above to cover 50 percent of the eligible land cost and allowable costs under N.J.A.C. 7:36-15.9.

(c) Green Acres and the nonprofit shall execute an amendment to the project agreement in accordance with N.J.A.C. 7:36-19.1 to reflect any supplemental funding provided under this section.

SUBCHAPTER 19. NONPROFIT ACQUISITION PROJECTS: PROJECT AGREEMENT, NEGOTIATIONS FOR PURCHASE OF PROJECT SITE; DISBURSEMENTS; ACCOUNTING AND RECORDKEEPING REQUIREMENTS

7:36-19.1 Project agreement

(a) Green Acres shall send the project agreement to the nonprofit. The nonprofit shall ensure that the project agreement is approved and signed by the nonprofit's attorney, and executed by the person authorized under the resolution described at N.J.A.C. 7:36-16.4(a)2. The project agreement shall contain:

1. An identification of the parcels to be acquired as part of the project site;
2. The estimated cost of acquisition of the project site;
3. The following special conditions:
 - i. That the nonprofit shall make and keep the lands accessible to the public, unless the Commissioner determines that public accessibility would be detrimental to the lands or any natural resources associated therewith;
 - ii. That the nonprofit shall agree not to sell, lease, exchange, or donate the lands unless:

(1) The transferee is the State, a local unit, another nonprofit, or the Federal government if permitted by the applicable Green Acres Bond Act;

(2) The lands will continue to be held for recreation and conservation purposes, and

(3) The Commissioner approves the transfer in writing prior to the nonprofit's offering, for sale or conveyance, of any of its interest in the project site. This requirement for written approval is met if an intended transferee is named in the project agreement executed under this section; and

iii. That the nonprofit shall agree to execute and donate to the State, at no charge, a perpetual conservation restriction, historic preservation restriction, or both, as applicable, prepared and approved by the State. The conservation or historic preservation restriction shall include:

(1) The conditions governing the use, future development, and maintenance of the project site; the public access to the project site; and the conveyance of any interest in the project site;

(2) The State's right to enforce the conditions of the restriction; and

(3) The remedies available to the State in the event the nonprofit does not comply with the conditions of the restriction;

4. Other special conditions as appropriate;

5. The requirements for recordkeeping and project administration; and

6. Other terms and conditions, including a statement of the remedies described at (f) through (i) below and a statement of the requirements for maintenance, use, development, and disposal or diversion of parkland as described at N.J.A.C. 7:36-20.

(b) Upon receipt of the project agreement executed in accordance with (a) above, the Department shall establish an account from which Green Acres shall disburse the grant.

(c) Green Acres and the nonprofit shall execute an amendment to the project agreement to add a parcel to the project site if the nonprofit demonstrates that the parcel meets the project eligibility requirements at N.J.A.C. 7:36- 15; to extend the project period established in the project agreement if the nonprofit demonstrates that it is making a good faith effort to complete the project in an expeditious manner; or to reflect any supplemental funding provided under N.J.A.C. 7:36-18.3.

(d) Upon receipt of notification from the nonprofit of the scheduled date of closing, Green Acres shall send the executed perpetual conservation restriction or historic preservation restriction required under (a)3iii above to the nonprofit. The nonprofit shall have the restriction recorded by the county clerk or registrar either when the deed for the project site is recorded or when the nonprofit receives the first disbursement of Green Acres funds and returned to Green Acres.

(e) In addition to any other rights or remedies available to the Department under law, if the nonprofit does not comply with any of the requirements of the project agreement, the conservation restriction and/or historic preservation restriction, as applicable, this chapter, or the Green Acres laws, or if the nonprofit makes any material misrepresentation in the project application and/or the documentation submitted in support of the application, the Department may take any of the following actions:

1. Issue a written notice of noncompliance directing the nonprofit to take and complete corrective action within 30 days of receipt of the notice.

i. If the nonprofit does not take corrective action, or if the corrective action taken is not adequate in the judgment of the Department, then the Department may take any of the actions described at (e)2 through 4 and (f) below;

2. Withhold a grant or loan disbursement or portion thereof;

3. Terminate the project agreement; and/or

4. Demand immediate repayment of all Green Acres funds that the nonprofit has received.

(f) If the nonprofit fails to comply with any of the terms of the project agreement, the conservation restriction and/or historic preservation restriction, as applicable, this chapter, or the Green Acres laws, the Department may initiate suit for injunctive relief or to seek specific enforcement, without posting bond, it being acknowledged that any actual or threatened failure to comply will cause irreparable harm to the State and that money damages will not provide an adequate remedy.

(g) If the Department incurs legal or other expenses, including its own personnel expenses, for the collection of payments due or in the enforcement or performance of any of the nonprofit's obligations under the project agreement, the conservation restriction and/or historic preservation restriction, as applicable, this chapter, or the Green Acres laws, the nonprofit shall pay these expenses on demand by the Department.

(h) The Department is not required to mitigate any damages to the nonprofit resulting from the nonprofit's noncompliance with the terms of the project agreement, the conservation restriction and/or historic preservation restriction, as applicable, this chapter or the Green Acres laws.

7:36-19.2 Negotiations for purchase of project site

(a) The nonprofit may enter into a purchase or option contract with the property owner only after the nonprofit accepts the eligible land cost under N.J.A.C. 7:36-18.2 or after the nonprofit receives the at-risk authorization under N.J.A.C. 7:36-16.3.

(b) Any person who performed an appraisal under N.J.A.C. 7:36-16.6 of any parcel in the project site shall not conduct negotiations for such parcel.

7:36-19.3 Disbursement of grant

(a) Green Acres shall disburse the grant in advance of closing or as reimbursement after closing.

(b) If the nonprofit seeks payment in advance of closing, it shall submit its request at least 60 days before the scheduled date of closing.

(c) For each parcel of land in the project site for which payment is requested, the nonprofit shall submit:

1. For payment in advance of closing, the following:

i. A copy of the contract of sale;

ii. A land survey plan, prepared in accordance with the rules of State Board of Professional Engineers and Land Surveyors at N.J.A.C. 13:40-5, showing acreage, tax map references (blocks and lots) current as of the date of the plan, all easements of record, fences, improvements, encroachments, water courses, wetlands, and pertinent natural features, submitted on paper (two copies) and in a format compatible with the Mapping and Digital Data Standards at N.J.A.C. 7:1, Appendix A;

iii. Two copies of the metes and bounds description, stating acreage, corresponding to the survey required under (c)1ii above, submitted on the surveyor's letterhead, and signed and sealed by the surveyor;

iv. A copy of the title insurance binder, with copies of the deed of record and of all easements, restrictions, and other instruments of record as attachments. The binder must name the State as additional insured;

v. A copy of each cancelled check (both sides), voucher, or invoice for appraisal, preliminary assessment, and survey costs;

vi. A Nonprofit Acquisition Payment Form, which Green Acres provides with the statement of eligible land cost under N.J.A.C. 7:36-18.1, with the following items completed:

(1) The project name, block(s) and lot(s), name of nonprofit, municipality, and county;

(2) An itemized statement of the cost of acquisition of the parcel; and

(3) A certification by the nonprofit's chief executive officer or chief financial officer that the information contained in the form is accurate and that no bonus has been given or received in connection with any bill for which the nonprofit seeks payment; and

vii. If the project involves a donation, a letter of intent from the donor which expresses the donor's intent to donate cash or a portion of the eligible land cost of the project site;

2. For reimbursement after closing, the following:

i. A copy of the cancelled check (both sides) for the purchase of the parcel(s) in the project site;

ii. A land survey plan, prepared in accordance with the rules of State Board of Professional Engineers and Land Surveyors at N.J.A.C. 13:40-5, showing acreage, tax map references (blocks and lots) current as of the date of the plan, all easements of record, fences, improvements, encroachments, water courses, wetlands, and pertinent natural features, submitted on paper (two copies) and in a format compatible with the Mapping and Digital Data Standards at N.J.A.C. 7:1, Appendix A;

iii. Two copies of the metes and bounds description, stating acreage, corresponding to the survey required under (c)2ii above, submitted on the surveyor's letterhead, and signed and sealed by the surveyor;

iv. A copy of the title insurance policy, with copies of the deed of record and of all easements, restrictions, and other instruments of record as attachments, and conforming to the following:

(1) The policy must name the State as additional insured;

(2) The policy must replace the survey exception with a survey endorsement that insures title to the area within the metes and bounds description;

(3) The policy amount must be at least equal to the eligible land cost; and

(4) Schedule B, Section II (Exceptions) must note that the parcel is subject to the Green Acres restrictions, and to the perpetual conservation restriction or historic preservation restriction, as applicable;

v. A copy of the recorded deed, containing the metes and bounds description required under (c)2iii above;

vi. A copy of each cancelled check (both sides), voucher, or invoice for appraisal, preliminary assessment, survey, and any other allowable costs under N.J.A.C. 7:36-15.9;

vii. A Nonprofit Acquisition Payment Form, which Green Acres provides with the statement of eligible land cost under N.J.A.C. 7:36-18.1, with the following items completed:

(1) The project name, block(s) and lot(s), name of nonprofit, municipality, and county;

(2) An itemized statement of the cost of acquisition of the parcel; and

(3) A certification by the nonprofit's chief executive officer or chief financial officer that the information contained in the form is accurate and that no bonus has been given or received in connection with any bill for which the nonprofit seeks payment;

(4) A justification of any difference between the purchase price and the eligible land cost of the parcel;

(5) A justification of any difference between the parcel acreage as described in the appraisal and the parcel acreage purchased;

viii. If the project involves a donation, a letter of intent from the donor which expresses the donor's intent to donate cash or a portion of the eligible land cost of the project site.

3. All documents required under (c)2 above not submitted with a request for payment in advance of closing shall be submitted as expeditiously as possible after closing.

(d) Upon receipt of a request for payment under (c) above, Green Acres shall:

1. Send to the nonprofit a payment invoice for the grant amount or 50 percent of the cost of acquisition, whichever is less. The nonprofit's chief executive officer or chief financial officer shall verify, sign, and return the invoice to Green Acres for processing; and

2. Conduct a site inspection of the parcel of land for which the payment is requested.

(e) The State shall mail each grant disbursement to the nonprofit in the form of a check. The nonprofit shall not sign over the check to the property owner or any other person but shall deposit the check into the nonprofit's bank account.

(f) The nonprofit shall immediately inform Green Acres if the closing date established in the contract of sale for the project site is postponed for any reason. A nonprofit that has received a disbursement in advance of a scheduled closing that is postponed is subject to the following conditions:

1. As of the 30th day after the disbursement is made, the nonprofit shall pay to the State interest accrued on the amount of the disbursement from that day up to the 90th day after the disbursement. The interest rate shall be the judgment interest rate established under the New Jersey Court Rules Governing Civil Practice at 4:42-11(a)(ii) in effect on the 30th day.

2. As of the 90th day after the disbursement is made, the nonprofit shall repay to the State the amount of the disbursement plus accrued interest from 30 days after disbursement to the date of repayment. The interest rate shall be the judgment interest rate established under the New Jersey Court Rules Governing Civil Practice at 4:42-11(a)(ii) in effect on the 90th day.

(g) A nonprofit that has repaid the disbursement plus accrued interest under (f)2 above may, upon acquisition of the project site, submit a request for reimbursement after closing in accordance with (c)2 above.

(h) The nonprofit may unilaterally withdraw the project at any time before it receives Green Acres funds. The nonprofit shall not terminate the project agreement after it receives any Green Acres funds without the written consent of Green Acres.

(i) If the nonprofit terminates the project agreement under (h) above, the nonprofit is responsible for any costs of acquisition incurred as of the time of termination. The nonprofit shall also repay, with interest at the judgment interest rate established under the New Jersey Court Rules Governing Civil Practice at 4:42-11(a)(ii) in effect at the time of termination, any disbursements which Green Acres made to the nonprofit for the project.

7:36-19.4 Accounting and recordkeeping

(a) The nonprofit shall maintain and make available to the Department for inspection on request all financial documents and records related to the project for three years in accordance with (d) below.

(b) The nonprofit, its contractors, and subcontractors shall employ generally accepted accounting procedures that adequately identify the costs associated with the Green Acres grant.

(c) The nonprofit shall maintain separate records for each project including the amount, receipt, and disposition of all funding received for the project, including Green Acres loans and grants, contributions, gifts, or donations from any other sources.

(d) The nonprofit shall provide a duly authorized representative of the Department access to all records, books, documents, and papers pertaining to the project agreement and/or the approved project for audit, examination, excerpt, and transcript purposes. Such records shall be maintained and access shall be provided during performance of the project and for three years after the latter date of either final payment or audit resolution. The nonprofit shall include this requirement in all project-related contracts.

(e) The nonprofit shall conduct annual audits and submit audit reports in conformance with the Single

Audit Act of 1984, P.L. 98-502 and the Single Audit Act Amendments of 1996, P.L. 104-156, Federal OMB Circular A-133: "Audits of Nonprofit Organizations," incorporated herein by reference, and State OMB Circular 98-07: "Single Audit Policy," incorporated herein by reference.

1. Audit reports shall address nonprofit's compliance and all specific instances of noncompliance with the material terms and conditions of the project agreement and applicable laws and regulations.

2. Audit reports shall contain an itemized schedule of all project-related financial assistance received by the nonprofit identifying: grantor agency, program title, State account number, and total disbursement.

(f) The Department shall adjust the nonprofit's final payment, if necessary, based on the results of the annual audit reports.

SUBCHAPTER 20. REQUIREMENTS FOR MAINTENANCE, USE, DEVELOPMENT, AND DISPOSAL OR DIVERSION OF FUNDED AND UNFUNDED PARKLAND; ADJUDICATORY HEARING REQUESTS

7:36-20.1 Maintenance requirements for funded parkland; compliance inspection

(a) Each local unit or nonprofit is responsible for the satisfactory care, maintenance, and operation of funded parkland. Each local unit or nonprofit shall maintain and preserve funded parkland in a condition which is equal to or better than the condition of the land at the time it was acquired or developed.

(b) Each local unit shall maintain any development constructed with Green Acres funding in reasonable repair in order to ensure its continuous use for the purpose for which it was constructed.

(c) Green Acres shall inspect funded parkland every three years to ensure compliance with the terms of the project agreement, this chapter, and the Green Acres laws.

1. Green Acres shall notify the local unit or nonprofit in advance of the date of the inspection.

2. The inspection shall include maintenance; integrity of parkland boundaries; presence of a Green Acres sign; diversion, if any, from outdoor recreation or conservation uses; compliance with the parkland use requirements of this subchapter; and such other aspects of the parkland necessary to determine compliance with the project agreement, this chapter, and the Green Acres laws.

3. Green Acres shall send an inspection summary to the local unit or nonprofit within 30 days after the date of the inspection. The summary shall include the status of compliance with the project agreement, this chapter, and the Green Acres laws, as well as the actions that the local unit or nonprofit must take in order to correct any instance of noncompliance.

7:36-20.2 Disposal or diversion of funded parkland and unfunded parkland

(a) A local unit shall not dispose of any funded or unfunded parkland unless the local unit obtains prior approval from the Commissioner and the State House Commission in accordance with N.J.A.C. 7:36-21, except when the transferee is a local unit, the State, or the Federal government. If the parkland is

transferred to a local unit, the State, or the Federal government, however, the Green Acres restrictions on the parkland shall continue to apply, and the document by which the parkland is transferred shall specify this.

(b) A local unit shall not divert to a use for other than recreation and conservation purposes any funded or unfunded parkland unless the local unit obtains prior approval from the Commissioner and the State House Commission in accordance with N.J.A.C. 7:36-21.

(c) A nonprofit shall divert to a use for other than recreation and conservation purposes, any funded parkland unless the nonprofit obtains prior approval from the Commissioner and the State House Commission in accordance with N.J.A.C. 7:36-21.

(d) If a nonprofit sells, leases, exchanges, or donates any interest in funded parkland in accordance with the conditions described at N.J.A.C. 7:36-19.1(a)3ii, the nonprofit shall pay to the Treasurer of the State 50 percent of the net proceeds to the nonprofit of the conveyance or transfer. For the purposes of this subsection, "net proceeds" means the amount of compensation received by the nonprofit in excess of any unreimbursed costs. This reimbursement provision shall be included in the perpetual conservation restriction or historic preservation restriction that the nonprofit executes under N.J.A.C. 7:36-19.1(a)3iii.

(e) As examples, uses that may constitute the diversion of funded or unfunded parkland from recreation and conservation purposes include: bridges; through roads or other transportation improvements; rights-of-way; public or private utility easements; municipal buildings, libraries, schools, and fire, police, or emergency services facilities; housing; well houses or water towers; solid waste facilities; private recreation and conservation facilities; wetlands creation or buffer areas required by other laws, regulations, codes, or ordinances in connection with non-parkland uses; dredge spoils, except those used as part of a development as defined in these rules; sewage sludge disposal; pump stations; surface and subsurface non-recreational easements; stormwater management facilities such as detention, retention, or sedimentation basins and outfall structures to manage stormwater generated off-site; and flood control facilities such as levees, berms, flood walls, channel construction, and ponding areas unless the facilities will not have any negative effect on the natural resource or recreational value of the parkland.

(f) A regional flood control project that is part of a regional flood control plan and that will, as a significant design element and purpose of the project, create or enhance a permanent water body suitable for water-dependent public outdoor recreation does not constitute a diversion of funded or unfunded parkland from recreation and conservation purposes, provided the project does not have any significant adverse impact on the natural resource or recreational value of the affected funded or unfunded parkland.

7:36-20.3 Amendment of Recreation and Open Space Inventory (ROSI)

(a) A local unit that believes its Recreation and Open Space Inventory (ROSI) does not accurately reflect those lands held for recreation and conservation purposes at the time of the local unit's receipt of Green Acres funds shall submit a written request to Green Acres to amend the ROSI by either adding or deleting a parcel(s), by correcting the area of a parcel(s), or by correcting the block and lot identification of a parcel(s) in order to accurately describe the lands held for recreation and conservation purposes.

(b) If Green Acres determines that a request to add a parcel or to correct the area of or the block and lot identification of a parcel is appropriate, it shall send the local unit a confirmation letter. The local unit shall amend the ROSI and have the amended ROSI recorded with the county clerk or registrar as an

amendment to the recorded project agreement or the declaration, as applicable, and return it to Green Acres.

(c) Green Acres shall consider the following factors, as applicable, in determining to approve or deny a request to delete a parcel from a ROSI:

1. The purpose for and the method by which the local unit acquired the parcel;
2. Whether the local unit took any formal action to dedicate the parcel for recreation or conservation purposes;
3. Any evidence relevant to the local unit's intentions regarding the use of the parcel at the time of acquisition and of receipt of Green Acres funds;
4. Whether the parcel is identified with a recreation or conservation designation on the official map of the municipality or its zoning map, or in the local unit's master plan; and
5. Whether the local unit expended funds to provide recreation or conservation use of the parcel or otherwise supported or encouraged such use.

(d) If Green Acres determines that there is sufficient public interest in a requested deletion of a parcel from a ROSI, then the local unit shall hold a public hearing regarding the requested deletion. The local unit shall publish notice of this public hearing as follows:

1. At least 15 days prior to the hearing, as a legal notice in the official newspaper of the municipality in which the parkland is located and, if the local unit is a county, in a local newspaper of general interest and circulation; and
2. At least seven days prior to the hearing, as an advertisement in the official newspaper of the municipality in which the parkland is located and, if the local unit is a county, in a local newspaper of general interest and circulation.

(e) If Green Acres approves a request to delete a parcel from a ROSI, it shall send the local unit a confirmation letter. The local unit shall amend the ROSI and send it to Green Acres. Green Acres shall then either:

1. Execute, with the local unit, an amendment to the project agreement or the declaration containing the amended ROSI, which the local unit shall have recorded with the county clerk or registrar and returned to Green Acres; or
2. Send to the local unit a release, which the local unit shall have recorded with the county clerk or registrar and returned to Green Acres.

(f) If Green Acres denies a request to delete a parcel from a ROSI, it shall notify the local unit in writing.

(g) If Green Acres has reason to believe that a parcel of land was held by a local unit for recreation and conservation purposes at the time of receipt of Green Acres funds and so should be listed on the local unit's ROSI, the process for amending the local unit's ROSI is as follows:

1. Green Acres shall send the local unit a letter identifying the parcel that should be listed on the ROSI and stating the basis for its belief that the parcel was held by the local unit for recreation and conservation purposes at the time of receipt of Green Acres funds.

2. If the local unit agrees that the parcel should be listed on its ROSI, the local unit shall promptly amend the ROSI in accordance with the procedure at (e) above.

3. If the local unit disagrees, it shall within 30 days submit to Green Acres documentation supporting its assertion that the land was not held for recreation and conservation purposes at the time of receipt of Green Acres funds.

4. Based on the documentation submitted and the factors described at (c) above, Green Acres shall within 30 days notify the local unit in writing of its determination that the parcel was or was not held for recreation and conservation purposes at the time of receipt of Green Acres funds.

(h) The local unit may request an adjudicatory hearing under N.J.A.C. 7:36- 20.12 to contest the denial under (f) above of a request to delete a parcel from its ROSI or to contest the determination under (g) above that a parcel was held for recreation and conservation purposes at the time of receipt of Green Acres funds.

7:36-20.4 Development of parkland acquired as a grant incentive project

(a) A local unit may develop parkland acquired as a grant incentive project for the preservation of environmentally significant areas under N.J.A.C. 7:36-5.1(b)1, as follows:

1. If the proposed development meets the special conditions in the project agreement under N.J.A.C. 7:36-9.1(a) and consists of de minimis development (for example, the installation of unpaved paths, trails, boardwalks; or minor landscaping) that supports the use of the parkland for public outdoor recreation and conservation purposes and that will have no significant adverse impact on the natural resource values of the parkland, the local unit need not obtain prior approval from Green Acres.

2. If the proposed development meets the special conditions in the project agreement under N.J.A.C. 7:36-9.1(a) and consists of development, other than de minimis development, that supports the use of the parkland for public outdoor recreation and conservation purposes and that will have no significant adverse impact on the natural resource values of the parkland, the local unit shall:

i. If the proposed development is to be located in the area or areas delineated on the project reference map as areas in which development for recreation and conservation purposes is not expected to adversely impact the natural resource values of the parkland, obtain prior approval in accordance with (c) and (e) below; or

ii. If the proposed development is to be located in the area or areas delineated on the project reference map as areas in which development for recreation and conservation purposes is expected to adversely impact the natural resource values of the project, obtain prior approval in accordance with (d) and (e) below.

(b) A local unit may develop parkland acquired as a grant incentive project for the protection of cultural, historic, or archaeological resources under N.J.A.C. 7:36-5.1(b)2 only if the proposed development meets the special conditions in the project agreement under N.J.A.C. 7:36-9.1(a) and the local unit obtains prior

approval from Green Acres in accordance with (d) and (e) below.

(c) A local unit seeking to develop parkland under (a)2i above shall submit to Green Acres a written request and the following items:

1. A site map, showing the location of the proposed development;
2. A narrative description of the proposed development; and
3. A narrative description of the impacts that the proposed development is likely to have on environmental resources.

(d) A local unit seeking to develop parkland under (a)2ii or (b) above shall:

1. Before submitting to Green Acres the written request and information required under (d)3 below, conduct a public hearing in the municipality in which the parkland is located to provide interested parties the opportunity to comment concerning the proposed development;

2. Provide notice of the public hearing regarding the proposed development as follows:

- i. The local unit shall publish a notice of the public hearing in the official newspaper of the municipality in which the parkland is located and, if the local unit is a county, also in a newspaper of general interest and circulation, as a legal notice at least 15 days before the public hearing, and again in the same newspapers as a paid advertisement at least seven days before the hearing; and

- ii. The local unit shall send a notice of the public hearing by certified mail to the governing body, the local planning board, and the environmental commission of the municipality in which the parkland is located, and to all owners of real property located within 200 feet of the location of actual construction on the proposed development site. If the parkland is county- owned parkland, the local unit shall, in addition, send a notice by certified mail to the county board of chosen freeholders, the county planning board, and the county environmental commission, if any; and

3. Submit to Green Acres a written request and the following items:

- i. A copy of the transcript or minutes of the public hearing held under (d)1 above;
 - ii. A site map, showing the location of the proposed development;
 - iii. A narrative description of the proposed development;
 - iv. A copy of each of the notices of the public hearing required under (d)1 above; and
 - v. A narrative description of the impacts that the proposed development is likely to have on environmental or historical resources, as appropriate.

(e) Within 45 days of its receipt of a request for approval of a proposed development under (a)2 or (b) above, Green Acres shall notify the local unit in writing of its approval or denial. Green Acres shall approve a request for approval under (a)2 or (b) above if the information submitted by the local unit in support of its request demonstrates that the proposed development will not have a significant adverse

impact on the historical or natural resource values, as applicable, of the project site and the project, assuming the development were completed, would nonetheless have been assigned points sufficient to qualify as a grant incentive project under N.J.A.C. 7:36- 5.1(b).

7:36-20.5 Construction of buildings on funded or unfunded parkland

(a) A local unit or nonprofit shall not construct a building on funded parkland unless the building directly supports the use of the funded parkland for recreation and conservation purposes and the local unit or nonprofit obtains prior approval from Green Acres in accordance with (c) below. Buildings that are considered to directly support the use of parkland for recreation and conservation purposes and that may be constructed under this section include, for example, park equipment storage areas, restrooms, concession stands, locker rooms, interpretive centers, park administration offices, and maintenance facilities for the parkland.

(b) A local unit shall not construct a building on unfunded parkland, unless the building is used for public outdoor or indoor recreation and the local unit obtains prior approval from Green Acres under (c) below.

(c) A local unit or nonprofit seeking approval of the proposed construction of a building on funded or unfunded parkland shall, at least 90 days before it intends to start construction, submit to Green Acres a written request, a narrative description, a site map, and a drawing of the building (with interior dimensions and uses labeled).

1. Green Acres shall notify the local unit or nonprofit in writing of its approval or denial within 30 days of its receipt of the request.

(d) The local unit or nonprofit may use any building constructed on funded parkland under this section for public indoor recreational activities, such as a multipurpose room for arts and crafts, or games, or a kitchen, provided the primary use of the building directly supports the use of the funded parkland for public outdoor recreation and conservation purposes. This use of the building for public indoor recreational activities shall take up no more than 25 percent of the square footage of the building.

7:36-20.6 Fees

(a) A local unit or nonprofit may establish a fee schedule for the use of funded parkland or for the use of individual facilities on funded parkland.

(b) Fees shall not be so excessive as to discourage reasonable public access.

(c) Fees may be established in the following categories:

1. Yearly, seasonal, monthly, weekly, daily, or hourly. However, if the local unit or nonprofit establishes seasonal and/or yearly fees, it shall also establish daily use fees.

2. Individual, group, or family;

3. Local unit resident or non-resident. However, the fee charged to a non- resident who lives in the State shall not be greater than two times the fee charged to a local unit resident; and

4. Handicapped, senior citizen, or student.

(d) A local unit or nonprofit shall use any fees it collects for the use of funded parkland or a facility on funded parkland for operating, maintenance, or capital expenses related to its funded parklands or to its recreation program as a whole. A local unit shall establish a trust account for this purpose, if permitted by law.

(e) Green Acres reserves the right to request that an audit be conducted and an audit report submitted in conformance with the Single Audit Act of 1984, P.L. 98-502 and the Single Audit Act Amendments of 1996, P.L. 104-156, Federal OMB Circular A-133: "Audits of State and Local Governments," incorporated herein by reference, and State OMB Circular 98-07: "Single Audit Policy," incorporated herein by reference, showing the use of collected fees.

(f) A local unit or nonprofit shall submit to Green Acres the initial fee schedule established for each parkland or facility as well as each subsequent revision of each fee schedule. With each fee schedule submitted, the local unit or nonprofit shall also submit a certification, by the clerk of the local unit or the chief executive officer of the nonprofit, respectively, that the fee schedule complies with this section. Green Acres reserves the right to request additional information and justification for a fee that appears to be excessive when compared with fees charged at similar facilities.

7:36-20.7 Public access to and use of funded parkland

(a) A local unit or nonprofit shall ensure that funded parkland is open to all New Jersey residents.

(b) A local unit or nonprofit that intends to close an area of funded parkland to public access or use in order to protect public safety, conduct routine maintenance, or protect a specific natural or cultural resource for more than 30 days shall notify Green Acres in writing. The local unit or nonprofit shall post a sign at the area being closed that states the reason for the closure and, if known, the date of anticipated reopening of the area.

(c) A local unit or nonprofit may schedule the use of a facility to accommodate organized sports or recreation or conservation activities. However, the local unit or nonprofit shall not schedule the use of a facility in such a way that the public is denied reasonable access to or use of the facility.

(d) A local unit or nonprofit shall not enter into exclusive use agreements or allow discriminatory scheduling of the use of parkland or facilities based on residency or otherwise in violation of the Law Against Discrimination, N.J.S.A. 10:5-1 et seq., or other applicable law.

(e) If yearly or seasonal rentals, reservations, or memberships are offered for the use of facilities such as marina slips, swimming pools, ice rinks, tennis courts, golf courses, or athletic fields, and the demand for such rentals, reservations, or memberships exceeds the available supply, the local unit or nonprofit shall:

1. Conduct a fair and equitable system to distribute rentals, reservations, or memberships;
2. Limit the time period for rentals of marina slips to a maximum of five years;
3. Limit the time period for other rentals, reservations, and memberships to a maximum of two years; and

4. Provide for daily use of the facilities as required under N.J.A.C. 7:36-20.6.

(f) The local unit or nonprofit shall post at the funded parkland or facility the conditions and fees, if any, for its use or a telephone number by which a user may obtain information about those conditions and fees.

7:36-20.8 Public access to and use of unfunded parkland

Provided such practices are not prohibited by any applicable law, a local unit that operates or develops a public recreation facility on unfunded parkland may restrict that facility to local unit residents only, and may adopt fees and schedule the use of that recreation facility at its discretion.

7:36-20.9 Posting of signs on funded parkland

(a) The local unit or nonprofit shall not post temporary or permanent billboards or signs on funded parkland, except:

1. The sign(s) required under (b) below;

2. The sign(s) required under N.J.A.C. 7:36-20.7(b);

3. Billboards or signs that acknowledge sponsors of or contributors to the acquisition or development of the parkland, or sponsors or contributors of equipment, maintenance, or activities conducted at the parkland; or

4. Interpretive and directional signs, historic markers, and other signs which describe or enhance the use of parkland for recreation and conservation purposes.

(b) Green Acres shall provide each local unit or nonprofit a sign that identifies a parkland or a facility as a Green Acres funded site dedicated to permanent recreation and open space. The local unit or nonprofit shall post the sign (or signs, as applicable) in a prominent place on the funded parkland and maintain it.

7:36-20.10 Leases, use agreements, or concession agreements regarding funded or unfunded parkland for recreation and conservation purposes

(a) If a local unit or nonprofit seeks to enter into or to renew a lease or a use agreement regarding funded or unfunded parkland for recreation and conservation purposes, the local unit or nonprofit shall, at least 30 days before it intends to execute the lease or use agreement, submit the lease or use agreement to Green Acres for approval.

(b) The lease or use agreement shall:

1. State that the purpose of the lease or use agreement is to promote recreation and conservation purposes, and describe the specific use to which the parkland will be put during the term of the lease or agreement;

2. Require that the public shall have reasonable access to the parkland which is the subject of the lease or

use agreement;

3. Provide for an initial term of no more than five years, subject to renewal at the end of the initial term and thereafter for additional terms of no more than five years each, provided Green Acres determines at each renewal that the lease or use agreement continues to promote recreation and conservation purposes;

4. Specify the payment, rental, or other consideration for the lease or use of the funded or unfunded parkland;

5. Require that the lessee or user comply with the applicable requirements of this subchapter; and

6. If the parkland is leased or used for agriculture, require that the parkland shall be farmed using management practices that conserve soil and water, such as those agricultural management practices approved by the State Agriculture Development Committee under the Right to Farm Act, N.J.S.A. 4:1C-1 et seq., and that minimize the use of herbicides, pesticides, and fertilizers in accordance with the Pesticide Control Code at N.J.A.C. 7:30.

(c) A local unit or nonprofit that enters into a lease or use agreement under this section shall use any payments, rentals, or other consideration received for operating, maintenance, or capital expenses related to its funded parklands or to its recreation program as a whole.

(d) A local unit or nonprofit may operate a recreational facility on funded parkland through a concession agreement awarded by competitive bidding in accordance with applicable law. The concession operator shall pay any payments or rentals collected directly to the local unit or nonprofit, who shall use such payments or rentals for operating, maintenance, or capital expenses related to its funded parklands or to its recreation program as a whole.

7:36-20.11 Leases or use agreements regarding funded or unfunded parkland for purposes other than recreation and conservation

(a) If a local unit seeks to enter into or to renew a lease or a use agreement regarding funded or unfunded parkland for purposes other than recreation and conservation, the local unit shall, at least 30 days before it intends to execute the lease or use agreement, submit the lease or use agreement to Green Acres for approval.

(b) The lease or use agreement shall:

1. State the public benefit that the lease or use agreement is to provide and describe the specific use to which the parkland will be put during the term of the lease or agreement. This specific use shall not interfere with the use of a developed recreational facility on the parkland unless the local unit ensures that the same recreational use is made available elsewhere on the parkland for the duration of the lease or use agreement;

2. Except as allowed under (c) below, provide for a term of no more than two years. Any extension of the lease or use agreement beyond two years constitutes a diversion requiring approval of the Commissioner and the State House Commission under N.J.A.C. 7:36-21;

3. Specify the payment, rental, or other consideration for the lease or use of the funded or unfunded

parkland; and

4. If applicable, require in accordance with a restoration plan approved by Green Acres, the restoration to its prior condition or to an improved condition any of the parkland disturbed in the course of the use identified under (b)1 above.

(c) A lease or use agreement regarding an historic building may provide for an initial term of no more than five years, subject to the renewal at the end of the initial term and thereafter for additional terms of no more than five years each, provided Green Acres determines at each renewal that the lease or use agreement continues to meet the requirements of this subsection. In addition to the requirements at (b) above, the lease or use agreement shall ensure reasonable public access to the building and shall require maintenance and/or restoration of the building in consultation with the Department's Historic Preservation Office or its successor, and shall not interfere with the use of the parkland for recreation and conservation purposes.

(d) A local unit that enters into a lease or use agreement under this section shall use any payments, rentals, or other consideration received for operating, maintenance, or capital expenses related to its funded parklands or to its recreation program as a whole.

7:36-20.12 Adjudicatory hearing requests

(a) To request an adjudicatory hearing to contest the denial under N.J.A.C. 7:36-20.3(f) of a request to delete a parcel from its ROSI or to contest the determination under N.J.A.C. 7:36-20.3(g) that a parcel was held for recreation and conservation purposes at the time of receipt of Green Acres funds, a local unit shall, within 20 days of its receipt of the denial or determination, submit the information listed at (a)1 through 7 below in writing to the Department at the Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection, PO Box 402, Trenton, NJ 08625-0402. The local unit shall also send a copy of the request to the Green Acres Program in the Department at PO Box 412, Trenton, NJ 08625-0412.

1. The name, address, and telephone number of the local unit and its authorized representative;
2. A copy of the letter to the local unit in which Green Acres stated the denial or determination that is the subject of the hearing request, showing the date the local unit received the letter;
3. A statement of the local unit's basis for contesting the denial or determination that is the subject of the hearing request;
4. Information supporting the hearing request and specific reference to or copies of other written documents relied on to support the request;
5. An estimate of the time required for the hearing (in days and/or hours);
6. A request, if necessary, for a barrier-free hearing location for physically disabled persons; and
7. An indication of whether the local unit is willing to negotiate a settlement with the Department prior to the Department's sending the hearing request to the Office of Administrative Law.

(b) If the local unit fails to include all of the information required under (a)1 through 7 above, the

Department may deny the hearing request.

(c) Any adjudicatory hearing held under this section shall be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

SUBCHAPTER 21. PROCEDURES FOR COMMISSIONER AND STATE HOUSE COMMISSION APPROVAL OF THE DISPOSAL OR DIVERSION OF FUNDED OR UNFUNDED PARKLAND

7:36-21.1 Procedural requirements; basis for approval of disposal or diversion

(a) Any local unit or nonprofit that seeks to dispose of funded or unfunded parkland other than in accordance with the exceptions described at N.J.A.C. 7:36-20.2(a) and (c), or to divert funded or unfunded parkland shall obtain prior approval from the Commissioner and the State House Commission in accordance with this subchapter.

(b) The procedure for obtaining approval of a disposal or diversion of parkland is as follows:

1. In accordance with N.J.A.C. 7:36-21.2 and 21.3, the local unit or nonprofit shall request and participate in a pre-application conference. Green Acres encourages local units or nonprofits to discuss the proposed disposal or diversion of parkland and related procedural requirements with Green Acres staff prior to requesting the pre-application conference.

2. In accordance with N.J.A.C. 7:36-21.4(a), the local unit or nonprofit shall submit to Green Acres an application for Commissioner and State House Commission approval.

3. In accordance with N.J.A.C. 7:36-21.4(b), the local unit or nonprofit shall hold a public hearing to obtain public comment on the proposed disposal or diversion.

4. In accordance with N.J.A.C. 7:36-21.4(c) and (d), the Commissioner shall approve or disapprove the application, and submit each approved application to the State House Commission for review.

5. In accordance with N.J.A.C. 7:36-21.4(e), Green Acres shall notify the local unit or nonprofit of the State House Commission's approval or disapproval.

(c) Approval by the Commissioner and the State House Commission of an application for the disposal or diversion of funded or unfunded parkland under this subchapter requires that the local unit or nonprofit proposing the disposal or diversion comply with all of the procedural requirements of this subchapter, and that the proposed disposal or diversion meet the following minimum criteria:

1. The disposal or diversion of funded or unfunded parkland fulfills a compelling public need or yields a significant public benefit, in accordance with N.J.A.C. 7:36-21.2(a). An application for a disposal or diversion of funded or unfunded parkland that does not demonstrate a compelling public need or significant public benefit shall be considered for approval under this subchapter only if the local unit or nonprofit will compensate for the disposal or diversion with replacement land that will substantially improve the quantity and quality of parkland within the boundaries of the local unit where the parkland proposed for disposal or

diversion is located;

2. There are no feasible alternatives to the disposal or diversion of funded or unfunded parkland, as demonstrated by the analysis required under N.J.A.C. 7:36-21.2(a);

3. The local unit or nonprofit shall compensate for the disposal or diversion of funded or unfunded parkland with replacement land, or, in lieu of replacement land, with a dedicated account for the acquisition of land for recreation and conservation purposes, in accordance with N.J.A.C. 7:36- 21.2(a) and 21.3;

4. The local unit or nonprofit shall compensate for the loss of any development resulting from the disposal or diversion of funded or unfunded parkland with replacement development, in accordance with N.J.A.C. 7:36- 21.2(a) and 21.3; and

5. The governing body of the local unit or nonprofit endorses the proposed disposal or diversion of funded or unfunded parkland by resolution, in accordance with N.J.A.C. 7:36-21.2(a) and 21.4(a), and a public hearing regarding the application for Commissioner and State House Commission approval is held at least 30 days before the date of the State House Commission meeting at which the application is considered, in accordance with N.J.A.C. 7:36-21.4(b).

7:36-21.2 Pre-application requirements

(a) A local unit or nonprofit seeking to dispose of or divert funded or unfunded parkland shall submit to Green Acres a written request for a pre- application conference that includes the following information:

1. A description of the compelling public need for and/or the significant public benefit to be derived from the proposed disposal or diversion;

i. Compelling public need for the purpose of this section is a hazard to the public health, safety, or welfare which will be mitigated by the proposed disposal or diversion;

ii. Significant public benefit for the purpose of this section is the improvement of the delivery of essential services to the public or to a segment of the public having a special need;

2. A no-feasible alternatives analysis that identifies, describes, and explains why alternative plans, including a no-build alternative and all reasonable alternatives using both public and private lands, will not satisfy the compelling public need for or significant public benefit from the proposed disposal or diversion of funded or unfunded parkland. The analysis shall describe the environmental impact of each alternative;

3. A description of the replacement land, or, in lieu of replacement land, the amount of money to be deposited in a dedicated account for the acquisition of land for recreation and conservation purposes, by which the local unit or nonprofit will compensate for the proposed disposal or diversion. The replacement land, or dedicated account, shall meet the requirements of N.J.A.C. 7:36-21.3, as applicable;

4. A description of the replacement development by which the local unit or nonprofit will compensate for the loss of any development resulting from the disposal or diversion of funded or unfunded parkland. The replacement development shall meet the requirements of N.J.A.C. 7:36-21.3, as applicable;

5. A statement of the value of the funded or unfunded parkland proposed to be disposed of or diverted, as

estimated by the tax assessor of the municipality in which the parkland is located;

6. If the proposed disposal or diversion is to be compensated for by replacement land, a municipal or county map and a site map, drawn to scale, showing the parkland proposed to be disposed of or diverted, and showing the proposed replacement land;

i. For the proposed replacement land, the site map shall include the tax map block and lot current as of the date of request, the owner of record, the approximate dimensions and area (in acres), existing improvements and easements, road rights-of-way, wetlands (as shown on maps prepared by the Department under the Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq., and the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq.), floodplains (as shown on the New Jersey State Flood Hazard Area maps prepared under the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.), and tidelands (as determined from New Jersey Tidelands claim maps, conveyance overlays, and atlas sheets);

7. If the proposed disposal or diversion will result in the loss of any development which is to be compensated for by a replacement development, a municipal or county map and a site map, drawn to scale, showing the parkland proposed to be disposed of or diverted, and a site location map showing the proposed replacement development;

8. A description of how the parkland is proposed to be disposed of or diverted, including the name of the prospective buyer, lessee, or grantee of an easement, as applicable; and any conditions or restrictions on the intended use of the disposed of or diverted parkland;

9. A description of the intended use for recreation and conservation purposes of the proposed replacement land; and

10. A resolution of the governing body of the local unit or nonprofit endorsing the proposal to dispose of or divert the parkland that is the subject of the request for a pre-application conference.

(b) Within 30 days of its receipt of the request for a pre-application conference and the information required under (a) above, Green Acres shall either:

1. Notify the local unit or nonprofit in writing that its request is complete and that the local unit or nonprofit shall contact Green Acres within 30 days of receiving the notification of completeness to schedule the pre-application conference; or

2. Notify the local unit or nonprofit in writing that the request is incomplete and that the local unit or nonprofit shall submit the necessary information by the date specified in the notification;

(c) The pre-application conference shall include a visit to the parkland proposed to be disposed of or diverted and the proposed replacement land, and to the lands identified in the no-feasible alternatives analysis required under (a) above.

(d) Within 45 days of the pre-application conference, Green Acres shall notify the local unit or nonprofit in writing that:

1. The proposed disposal or diversion does not meet the requirements of this section and shall not be the subject of an application for Commissioner and State House Commission approval in accordance with N.J.A.C. 7:36-21.4;

2. Additional information is necessary in order to determine if the proposed disposal or diversion meets the requirements of this section, with a deadline by which the information must be submitted to Green Acres;

3. The proposed disposal or diversion must be revised in order to meet the requirements of this section, with a deadline by which the revised request must be submitted to Green Acres; or

4. The local unit or nonprofit shall submit to Green Acres a complete application for Commissioner and State House Commission approval in accordance with N.J.A.C. 7:36-21.4.

7:36-21.3 Compensation for parkland proposed to be disposed of or diverted

(a) A local unit or nonprofit shall propose to compensate for the disposal or diversion of funded or unfunded parkland by replacing the parkland with lands of equal or greater market value and of reasonably equivalent size, quality, location, and usefulness for recreation and conservation purposes. However, if no such lands are available, the local unit or nonprofit shall propose to provide monetary compensation for the disposal or diversion in accordance with (a)1, 2 or 3 below, as applicable:

1. For the proposed disposal or diversion of funded or unfunded parkland, the local unit or nonprofit shall deposit into a dedicated account an amount of money at least equal to the market value of the parkland to be disposed of or diverted, as appraised at the time of the application for Commissioner and State House Commission approval under N.J.A.C. 7:36-21.4. The money in the dedicated account shall be used only for the acquisition of land for recreation and conservation purposes. For each acquisition of land using money from the dedicated account, the local unit or nonprofit shall submit to Green Acres for prior approval all of the information required under N.J.A.C. 7:36-21.4(a)1 through 7. All land acquired using money from the dedicated account shall be subject to Green Acres restrictions, and the deed for each parcel shall specify this;

2. For the proposed disposal or diversion of unfunded parkland with a market value of \$10,000 or less, the local unit shall deposit into a dedicated account an amount of money at least equal to the market value of the parkland to be disposed of or diverted, as appraised at the time of the application for Commissioner and State House Commission approval under N.J.A.C. 7:36-21.4. The money in the dedicated account shall be used only for the development of facilities for recreation and conservation purposes; or

3. For the proposed disposal or diversion of funded or unfunded parkland, the local unit or nonprofit shall repay to the Treasurer of the State, for deposit into the appropriate Green Acres bond fund, the market value of the funded or unfunded parkland to be disposed of or diverted, as appraised at the time of application for Commissioner and State House Commission approval under N.J.A.C. 7:36-21.4.

(b) If a local unit or nonprofit proposes to dispose of or divert a permanent easement of less than one acre on funded or unfunded parkland, the local unit or nonprofit may, as an alternate to replacement land, propose to provide monetary compensation for the disposal or diversion in an amount equal to the appraised value of the easement. The local unit or nonprofit shall use the monetary compensation for capital improvements related to its funded or unfunded parkland or to its recreation program as a whole.

(c) A local unit or nonprofit shall propose to compensate for the loss of any development resulting from the proposed disposal or diversion of funded or unfunded parkland with a development of reasonably

equivalent usefulness, size, quality, and location.

(d) Except as provided at (f) below, a local unit or nonprofit shall not propose to compensate for the disposal or diversion of funded or unfunded parkland by replacing the parkland with land already subject to Green Acres restrictions.

(e) A local unit shall not propose to compensate for the disposal or diversion of funded or unfunded parkland by replacing the parkland with land on which streets are shown on a subdivision plan as either offered for dedication or dedicated but not constructed (also known as "paper streets"), unless the paper streets are an integral part of the proposed replacement land and are vacated by ordinance.

(f) If the parkland proposed to be disposed of or diverted comprises no more than three acres and no more than five percent of the area of the park in which it is located, the local unit or nonprofit may propose to compensate for the disposal or diversion by "banking" a parcel of land that is significantly larger than the parkland proposed to be disposed of or diverted. The local unit shall specify the portion of the banked parcel that replaces the parkland initially proposed to be disposed of or diverted, and shall reserve the remainder of the banked parcel. The following conditions apply to the reserved remainder:

1. The reserved remainder shall be subject to Green Acres restrictions as of the date that the local unit or nonprofit executes a written agreement with Green Acres establishing the land compensation "bank" subsequent to Commissioner and State House Commission approval under this subchapter of the initial disposal or diversion;

2. The local unit or nonprofit shall use the reserved remainder only as replacement land for subsequent proposed disposals or diversions of funded or unfunded parkland that comprise no more than three acres and no more than five percent of the area of the park in which it is located; and

3. Any subsequent proposed disposal or diversion of parkland for which the banked remainder of the parcel is used as replacement land shall meet all the requirements of this section.

(g) A local unit or nonprofit shall not propose to compensate for the disposal or diversion of funded or unfunded parkland by replacing the parkland with land that has a market value less than that of the parkland proposed to be disposed of or diverted unless:

1. The local unit or nonprofit makes up the difference in market value, up to a maximum of 50 percent of the value of the proposed replacement land, with the cost of developments that the local unit or nonprofit constructs in addition to any developments required to be replaced under (c) above;

2. The area of the proposed replacement land is at least as great as that of the parkland proposed to be disposed of or diverted and is of reasonably equivalent quality, location, and usefulness for recreation and conservation purposes; and

3. The cost of the additional development does not include the cost of any upgrades or improvements to any development required to be replaced under (c) above.

7:36-21.4 State House Commission application

(a) A local unit or nonprofit that has been notified under N.J.A.C. 7:36-21.2(e)4 to submit a complete

application to the Commissioner and State House Commission for approval shall within 180 days submit to Green Acres the following:

1. An appraisal of the parkland proposed to be disposed of or diverted and an appraisal of the replacement land proposed as compensation, obtained in accordance with the requirements of N.J.A.C. 7:36-6.6(a) through (d);

- i. If the ratio of proposed replacement land to the parkland proposed to be disposed of or diverted is at least 2:1, the local unit or nonprofit may submit to Green Acres a certification by the tax assessor of the local unit where the land is located that the replacement land is of at least equal market value and has the same development potential as does the parkland to be disposed of or diverted. The certification shall be on a form provided by Green Acres, and shall include valuation information. If Green Acres concurs with the tax assessor's certification, the local unit or nonprofit need not submit the appraisal(s) required under this section.

- ii. In any appraisal of parkland proposed to be disposed of or diverted, the highest and best use shall be considered to be the use intended subsequent to the disposal or diversion, if the disposal or diversion would result in a higher economic value for the land;

2. A title report for the proposed replacement land, if necessary, to determine existing restrictions, encumbrances, easements, liens, or other factors which may affect the value of the land;

3. A copy of an environmental assessment report based on an outline provided by Green Acres which describes the existing environmental features of the land proposed for disposal or diversion and of the replacement land; and identifies and compares alternative replacement lands;

4. A preliminary assessment report for the proposed replacement land if that land has a current or past industrial use, appears to have been disturbed based on aerial photography or a site inspection, or Green Acres receives information regarding a history of contamination. Green Acres shall determine if the report contains the information required under the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, and shall notify the local unit or nonprofit as follows:

- i. If the preliminary assessment report does not contain the required information, Green Acres shall send the local unit or nonprofit a deficiency letter identifying the information that must be submitted. The local unit or nonprofit shall submit the information by the date specified in the letter.

- ii. If the preliminary assessment report contains the required information and does not identify any areas of concern, as defined under the Technical Requirements for Site Remediation, Green Acres shall send the local unit or nonprofit a letter acknowledging the sufficiency of the preliminary assessment report. The chief executive officer of the local unit or nonprofit shall certify, on a form provided by Green Acres with the sufficiency letter, that the local unit or nonprofit has reviewed the preliminary assessment report and determined to proceed with the application for approval of the disposal or diversion. The local unit or nonprofit shall return the certification to Green Acres within 30 days of the date of the sufficiency letter.

- iii. If the preliminary assessment report contains the required information and identifies one or more areas of concern, as defined under the Technical Requirements for Site Remediation, Green Acres shall send a letter notifying the local unit or nonprofit that the areas of concern must be addressed to the Department's satisfaction before the application will be submitted for Commissioner and State House Commission approval;

5. Two copies of a land survey plan for the parcel of parkland proposed to be disposed of or diverted and two copies of a land survey plan for the proposed replacement land. Each survey plan shall be prepared in accordance with the rules of State Board of Professional Engineers and Land Surveyors at N.J.A.C. 13:40-5, showing acreage, tax map references (blocks and lots) current as of the date of the plan, all easements of record, fences, improvements, encroachments, water courses, wetlands, and pertinent natural features, and shall be submitted on paper (two copies) and, for the survey plan for the proposed replacement land, also in a format compatible with the Mapping and Digital Data Standards at N.J.A.C. 7:1, Appendix A;

6. Two copies of the metes and bounds description, stating acreage, corresponding to the survey required under (a)5 above, submitted on the surveyor's letterhead, and signed and sealed by the surveyor;

7. Two copies of the site map of the proposed replacement land if there have been any changes in the information shown since the map was submitted with the request for a pre-application conference under N.J.A.C. 7:36-21.2(a)6;

8. A reference map or maps, if necessary, on 8 1/2 by 11 inch paper, showing the general location of the parkland, the specific portion proposed to be disposed of or diverted, and the replacement land;

9. A resolution, adopted by the governing body of the local unit or nonprofit after the public hearing required under (b) below, affirming the local unit's or nonprofit's endorsement of the proposal to dispose of or divert the parkland. The resolution shall include a summary of the proposed disposal or diversion and of the replacement land or cash repayment in lieu of replacement land, or the replacement development, by which the local unit will compensate for the disposal or diversion;

10. Proof of publication and mailing of the notice of the public hearing required under (b)1 below;

11. A copy of the minutes or transcript of the public hearing required under (b) below, including a summary of the public comments and the local unit's or nonprofit's responses to them; and

12. A letter from the local unit's or nonprofit's attorney stating that:

i. The attorney has reviewed the entire application for Commissioner and State House Commission approval;

ii. It is the attorney's opinion that the local unit or nonprofit is empowered to proceed with the application; and

iii. It is the attorney's opinion that the local unit or nonprofit is not in violation of any applicable Federal, State, or local laws, rules, regulations, codes, or ordinances.

(b) The local unit or, in the case of a nonprofit, the Department shall hold a public hearing in the local unit in which the parkland proposed to be disposed of or diverted is located to obtain public comment on the application. The local unit or nonprofit shall provide notice of the public hearing in accordance with (b)1 and 2 below. The notice shall specify that the application for Commissioner and State House Commission approval of the disposal or diversion has been submitted to Green Acres and is available for review at the Green Acres Program offices. In addition, the local unit or nonprofit is encouraged to issue a press release prior to the public hearing.

1. The local unit or nonprofit shall publish a notice in the official newspaper of the municipality in which the parkland is located and, if the local unit is a county, also in a newspaper of general interest and circulation, as a legal notice at least 15 days before the public hearing, and again in the same newspapers as a paid advertisement at least seven days before the hearing; and

2. The local unit or nonprofit shall send a notice by certified mail to the governing body, the local planning board, and the environmental commission of the municipality in which the parkland is located, and to all owners of real property located within 200 feet of the parkland proposed to be disposed of or diverted.

(c) Within 45 days after Green Acres receives the application required under (a) above, Green Acres shall notify the local unit or nonprofit as to whether the application is complete for Commissioner and State House Commission review or whether additional information is required.

1. If additional information is required, Green Acres shall notify the local unit or nonprofit as to whether the application is complete within 15 days after Green Acres receives the additional information.

(d) Within 60 days after Green Acres notifies the local unit or nonprofit under (c) above that its application is complete, the Commissioner shall notify the local unit or nonprofit in writing of his or her approval or disapproval of the application.

1. The Commissioner shall submit an approved application to the State House Commission for review at the State House Commission's next scheduled meeting, provided the date of the meeting is at least 30 days after the date of the public hearing held under (b) above.

(e) Green Acres shall notify the local unit or nonprofit in writing of the State House Commission's approval or disapproval of the application.

(f) If the local unit or nonprofit determines to proceed with the disposal or diversion after receiving notice under (e) above of the State House Commission approval, Green Acres shall either:

1. Execute a release of the land being disposed of or diverted; or

2. If the compensation for the disposal or diversion is replacement land, execute with the local unit or nonprofit an agreement releasing the Green Acres restrictions on the parkland disposed of or diverted, and subjecting the replacement land to the Green Acres restrictions.